

NOTICE OF INTENT

Department of Health and Hospitals  
Bureau of Health Services Financing

Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Provider Fee Increase  
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to reduce the per diem rates (*Louisiana Register*, Volume 39, Number 10).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee (*Louisiana Register*, Volume 40, Number 3).

This proposed Rule is being promulgated to continue the provisions of the April 1, 2014 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care**

**Subpart 3. Intermediate Care Facilities for Persons with  
Intellectual Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32903. Rate Determination**

A. - D.4.d.

i. Effective for dates of service on or after April 1, 2014, the add-on amount to each ICF/ID's per diem rate for the provider fee shall be increased to \$16.15 per day.

E. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030,

Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person  
Preparing  
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Office: Bureau of Health Services  
Financing

Return  
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Rule Title: Intermediate Care Facilities for  
Persons with Intellectual  
Disabilities  
Provider Fee Increase

Date Rule Takes Effect: April 1, 2014

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$819,196 for FY 14-15, \$841,104 for FY 15-16 and \$866,337 for FY 16-17; however the state match required shall be offset by an increase in revenue collections from the provider fees collected from intermediate care facilities for persons with intellectual disabilities (ICFs/ID). It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,339,856 for FY 14-15, \$1,382,275 for FY 15-16 and \$1,423,743 for FY 16-17. It is anticipated that \$216 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

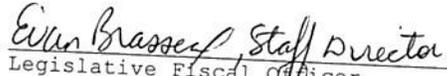
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the April 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to increase the add-on amount to the per diem rate for the provider fee. It is anticipated that implementation of this proposed rule will increase program expenditures for ICFs/ID by approximately \$2,158,620 for FY 14-15, \$2,223,379 for FY 15-16 and \$2,290,080 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

  
Signature of Agency Head  
or Designee

  
Legislative Fiscal Officer  
or Designee  
12-9-14

J. Ruth Kennedy, Medicaid Director  
Typed name and Title of  
Agency Head or Designee

12-9-14  
Date of Signature

  
DHH/BHSF Budget Head

12/9/14  
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

*This proposed Rule continues the provisions of the April 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to increase the add-on amount to the per diem rate for the provider fee.*

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

*Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to reduce the per diem rates (Louisiana Register, Volume 39, Number 10).*

*The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee (Louisiana Register, Volume 40, Number 3). This proposed Rule is being promulgated to continue the provisions of the April 1, 2014 Emergency Rule.*

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

*Yes. This proposed rule will result in an increase in program expenditures for ICFs/ID by approximately \$2,159,052 for FY 14-15, \$2,223,379 for FY 15-16 and \$2,290,080 for FY 16-17. In FY 14-15, \$432 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a)  If yes, attach documentation.  
(b)  If no, provide justification as to why this rule change should be published at this time.

*Act 14 of the 2014 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and thereby authorizes the expenditure of these funds. This proposed Rule should be promulgated at this time to ensure continued access to ICF/ID services by reimbursing providers for the increase in the provider fee amount.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 14-15	FY 15-16	FY 16-17
PERSONAL SERVICES			
OPERATING EXPENSES	\$432	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$2,158,620	\$2,223,379	\$2,290,080
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$2,159,052</b>	<b>\$2,223,379</b>	<b>\$2,290,080</b>

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

*The expenses reflected above are the estimated increases in program expenditures for ICFs/ID. In FY 14-15, \$432 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 14-15	FY 15-16	FY 16-17
STATE GENERAL FUND	\$819,196	\$841,104	\$866,337
SELF-GENERATED			
FEDERAL FUND	\$1,339,856	\$1,382,275	\$1,423,743
OTHER (Specify)			
<b>Total</b>	<b>\$2,159,052</b>	<b>\$2,223,379</b>	<b>\$2,290,080</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

*Yes, sufficient funds are available to implement this rule.*

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

*This proposed rule has no known impact on local governmental units.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

*There is no known impact on the sources of local governmental unit funding.*

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 14-15	FY 15-16	FY 16-17
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$1,339,856	\$1,382,275	\$1,423,743
LOCAL FUNDS			
<b>Total</b>	<b>\$1,339,856</b>	<b>\$1,382,275</b>	<b>\$1,423,743</b>

\*Specify the particular fund being impacted

B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

*The amounts reflected above are the estimated increases in the federal share of program expenditures for ICFs/ID. In FY 14-15, \$216 is included for the federal expense for promulgation of this proposed rule and the final rule.*

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

*This proposed Rule continues the provisions of the April 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICFs/ID) to increase the add-on amount to the per diem rate for the provider fee.*

B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

*It is anticipated that implementation of this proposed rule will increase program expenditures for ICFs/ID by approximately \$2,158,620 for FY 14-15, \$2,223,379 for FY 15-16 and \$2,290,080 for FY 16-17.*

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

*It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.*