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EMERGENCY RULE       NOTICE OF INTENT       RULE       POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) December, 20 15 *Louisiana Register* the document indicated above.

Bureau of Health Services Financing  
Office/Board/Commission promulgating this document

Department of Health and Hospitals  
Department under which office/board/commission is classified

Kathy H. Kliebert Secretary  
(name) (title)  
Name and title of person whose signature will appear in the publication (at the end of the document)

Veronica Dent (225) 342-3238 (225) 342-9474  
(name) (phone) (fax)  
Name, phone number, and FAX number of person to contact regarding this document

Provide a short descriptive listing for this document to be used in the *Louisiana Register* TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a Notice of Intent:

\*If sending a diskette, indicate the name of the file on diskette:

IP Pub-Priv Partner NOI 15-12 OSR

Inpatient Hospital Services  
Public-Private Partnerships  
Supplemental Payments



Signature of Agency Head or Designee

**Important:** If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, **AND** if the rule text in the ER is identical to the rule text in the NOI, check here:

Kathy H. Kliebert Secretary  
Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT #                     

**ISIS AGENCY:** I certify the availability of fiscal year 2016 appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

305 7111 5090                      2008  
AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

**NON-ISIS AGENCY:** I certify the availability of fiscal year            appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Department of Health and Hospitals/BHSF Policy Compliance  
Agency Name

PO Box 91030  
Street Address or Post Office Box

Baton Rouge Louisiana 70821  
City State Zip Code

  
Signature of Agency Head or Designee - Phone #

Lines/Other Charges \_\_\_\_\_ Typesetting \$ \_\_\_\_\_ TOTAL \$ \_\_\_\_\_

NOTICE OF INTENT

Department of Health and Hospitals  
Bureau of Health Services Financing

Inpatient Hospital Services  
Public-Private Partnerships  
Supplemental Payments  
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 17 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.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state (private) owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative.

The department submitted the required corresponding Medicaid State Plan Amendment to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

(CMS) for review and approval as a result of these revisions to the reimbursement methodology governing inpatient hospital services. During negotiations with CMS to secure approval, additional revisions were made. This proposed Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule, and to revise these provisions to ensure they are consistent with the approved corresponding State Plan Amendment.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**  
**Subpart 1. Inpatient Hospital Services**

**Chapter 17. Public-Private Partnerships**

**§1701. Baton Rouge Area Hospitals**

A. Qualifying Criteria. Effective for dates of service on or after April 15, 2013, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals in the Baton Rouge Area that meet the following conditions.

1. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Reimbursement Methodology

1. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year.

2. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

a. The payments will be made in four equal quarterly payments based on 100 percent of the estimated charge differential for the state fiscal year.

3. The qualifying hospital will provide quarterly reports to the department that will demonstrate that, upon implementation, the annual Medicaid inpatient payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. The department will verify the Medicaid claims data of these interim reports using the state's MMIS system. When the Department receives the annual cost report as filed, the supplemental calculations will be reconciled to the cost report.

4. If there is additional cap room, an adjustment payment will be made to assure that supplemental payments are the actual charge differential. The supplemental payments will also be reconciled to the final cost report.

5. The annual supplemental payments will not exceed the allowable Medicaid inpatient charge differential per 42 CFR 447.271, and the maximum inpatient Medicaid payments shall not exceed the upper limit per 42 CFR 447.272.

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, Bureau of Health Services Financing, LR 42:

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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it will enhance recipient access to hospital services by ensuring sufficient provider participation in the Hospital Program.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will enhance recipient access

to hospital services by ensuring sufficient provider participation in the Hospital Program.

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 and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

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](mailto: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 28, 2016 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  
Statement: Robert Andrepont  
Phone: 342-8769

Dept.: Health and Hospitals  
Office: Bureau of Health Services  
Financing

Return Address: P.O. Box 91030  
Baton Rouge, LA

Rule Title: Inpatient Hospital Services  
Public-Private Partnerships  
Supplemental Payments

Date Rule Takes Effect: November 1, 2012

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 \$41,257,466 for FY 15-16, \$54,608,710 for FY 16-17 and \$56,944,019 for FY 17-18. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.26 percent in FY 16-17.*

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 \$67,802,541 for FY 15-16, \$90,088,455 for FY 16-17 and \$93,941,033 for FY 17-18. It is anticipated that \$270 will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.26 percent in FY 16-17.*

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

*This proposed Rule continues the provisions of the November 1, 2012 Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state (private) owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for inpatient hospital services by approximately \$109,059,467 for FY 15-16, \$144,697,165 for FY 16-17 and \$150,885,052 for FY 17-18.*

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 may have a positive effect on employment.*

  
\_\_\_\_\_  
Signature of Agency Head  
or Designee

*Evan Brasser, Staff Director*  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

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

*12/10/15*  
\_\_\_\_\_  
Date of Signature

  
\_\_\_\_\_  
DHH/BHSF Budget Head

*12/10/15*  
\_\_\_\_\_  
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 November 1, 2012 Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state (private) owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services.*

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

*The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state (private) owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (Louisiana Register, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative.*

*The department submitted the required corresponding Medicaid State Plan Amendment to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for review and approval as a result of these revisions to the reimbursement methodology governing inpatient hospital services. During negotiations with CMS to secure approval, additional revisions were made. This proposed Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule, and to revise these provisions to ensure they are consistent with the approved corresponding State Plan Amendment.*

- 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 inpatient hospital services by approximately \$109,060,007 for FY 15-16, \$144,697,165 for FY 16-17 and \$150,885,052 for FY 17-18. In FY 15-16, \$540 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)   x   If no, provide justification as to why this rule change should be published at this time.

*Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to provide reimbursements to providers for Medicaid covered services. This rule change should be published at this time to ensure recipients will have continued access to inpatient hospital services and continued provider participation.*

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 15-16	FY 16-17	FY 17-18
PERSONAL SERVICES			
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$109,059,467	\$144,697,165	\$150,885,052
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$109,060,007</b>	<b>\$144,697,165</b>	<b>\$150,885,052</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 inpatient hospital services. In FY 15-16, \$540 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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND	\$41,257,466	\$54,608,710	\$56,944,019
SELF-GENERATED			
FEDERAL FUND	\$67,802,541	\$90,088,455	\$93,941,033
OTHER (Specify)			
<b>Total</b>	<b>\$109,060,007</b>	<b>\$144,697,165</b>	<b>\$150,885,052</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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$67,802,541	\$90,088,455	\$93,941,033
LOCAL FUNDS			
Total	\$67,802,541	\$90,088,455	\$93,941,033

\*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 inpatient hospital services. In FY 15-16, \$270 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 November 1, 2012 Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state (private) owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services.*

- 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 programmatic expenditures for inpatient hospital services by approximately \$109,059,467 for FY 15-16, \$144,697,165 for FY 16-17 and \$150,885,052 for FY 17-18.*

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 may have a positive effect on employment.*