

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Nursing Facilities
Per Diem Rate Reduction
(LAC 50:II.20005)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 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.

For state fiscal year 2014-15, state general funds are required to continue nursing facility rates at the rebased level. Because of the fiscal constraints on the state's budget, the state general funds will not be available to sustain the increased rate. Consequently, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities (*Louisiana Register*, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the July 1, 2014 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20005. Rate Determination [Formerly LAC 50:VII.1305]

A. - P. ...

Q. Effective for dates of service on or after July 1, 2014, the per diem rate paid to non-state nursing facilities, shall be reduced by \$90.26 of the rate in effect on June 30, 2014 until such time that the rate is rebased.

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 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:092 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097 (November 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 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 increase the total direct and indirect cost of the provider to provide the same level of service due to the decrease in payments. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

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 Tuesday, March 31, 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
Statement: Kaylin A. Haynes Dept.: Health and Hospitals
Phone: 342-9319 Office: Bureau of Health Services
Financing

Return P.O. Box 91030
Address: Baton Rouge, LA Rule Title: Nursing Facilities
Per Diem Rate Reduction

Date Rule Takes Effect: July 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 programmatic savings to the state of \$215,905,347 for FY 14-15, \$221,737,972 for FY 15-16 and \$228,390,111 for FY 16-17. 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 percent 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 reduce federal revenue collections by approximately \$353,165,288 for FY 14-15, \$364,405,227 for FY 15-16 and \$375,337,384 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 amends the provisions governing the reimbursement methodology for nursing facilities to further reduce the reimbursement rates for non-state nursing facilities. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program for nursing facility services by approximately \$569,071,067 for FY 14-15, \$586,143,199 for FY 15-16 and \$603,727,495 for FY 16-17.

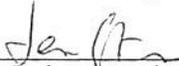
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to nursing facilities. The reduction in payments may adversely impact the financial standing of nursing facilities and could possibly cause a reduction in employment opportunities.

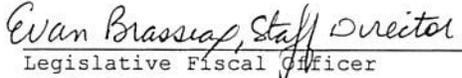


Signature of Agency Head
or Designee

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



DHH/BHSF Budget Head



Legislative Fiscal Officer
or Designee

2/9/15

Date of Signature

2/9/15

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 amends the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities.

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

For state fiscal year 2014-15, state general funds are required to continue nursing facility rates at the rebased level. Because of the fiscal constraints on the state's budget, the state general funds will not be available to sustain the increased rate. Consequently, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency which amended the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities (Louisiana Register, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the July 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.

No. This proposed rule will result in a reduction in program expenditures in the Medicaid program for nursing facility services by approximately \$569,070,635 for FY 14-15, \$586,143,199 for FY 15-16 and \$603,727,495 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.

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	(\$569,071,067)	(\$586,143,199)	(\$603,727,495)
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	(\$569,070,635)	(\$586,143,199)	(\$603,727,495)

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 reductions in expenditures for nursing facility services. 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	(\$215,905,347)	(\$221,737,972)	(\$228,390,111)
SELF-GENERATED			
FEDERAL FUND	(\$353,165,288)	(\$364,405,227)	(\$375,337,384)
OTHER (Specify)			
Total	(\$569,070,635)	(\$586,143,199)	(\$603,727,495)

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	\$ (353,165,288)	\$ (364,405,227)	\$ (375,337,384)
LOCAL FUNDS			
Total	\$ (353,165,288)	\$ (364,405,227)	\$ (375,337,384)

**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 reductions in the federal share of Medicaid Program expenditures for nursing facility services. In FY 14-15, \$216 will be collected for the federal share of the administrative 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 amends the provisions governing the reimbursement methodology for nursing facilities to further reduce the reimbursement rates for non-state nursing facilities.

- 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 reduce program expenditures in the Medicaid Program by approximately \$569,071,067 for FY 14-15, \$586,143,199 for FY 15-16 and \$603,727,495 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. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to nursing facilities. The reduction in payments may adversely impact the financial standing of nursing facilities and could possibly cause a reduction in employment opportunities.