

**NOTICE OF INTENT**

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

**Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Complex Care Reimbursements  
(LAC 50:VII.32915)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:VII.32915 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 currently provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services provided to Medicaid recipients.

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID (*Louisiana Register*, Volume 40, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 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**

**§32915. Complex Care Reimbursements**

A. Effective for dates of service on or after October 1, 2014, non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid recipients who require such services. The add-on rate adjustment shall be a flat fee amount and may consist of payment for any one of the following components:

1. equipment only;
2. direct service worker(DSW);
3. nursing only;
4. equipment and DSW;
5. DSW and nursing;
6. nursing and equipment; or
7. DSW, nursing, and equipment.

B. Non-state owned ICFs/ID may qualify for an add-on rate for recipients meeting documented major medical or behavioral complex care criteria. This must be documented on

the complex support need screening tool provided by the department. All medical documentation indicated by the screening tool form and any additional documentation requested by the department must be provided to qualify for the add-on payment.

C. In order to meet the complex care criteria, the presence of a significant medical or behavioral health need must exist and be documented. This must include:

1. endorsement of at least one qualifying condition with supporting documentation; and

2. endorsement of symptom severity in the appropriate category based on qualifying condition(s) with supporting documentation.

a. Qualifying conditions for complex care must include at least one of the following as documented on the complex support need screening tool:

i. significant physical and nutritional needs requiring full assistance with nutrition, mobility, and activities of daily living;

ii. complex medical needs/medically fragile; or

iii. complex behavioral/mental health needs.

D. Enhanced Supports. Enhanced supports must be provided and verified with supporting documentation to qualify for the add-on payment. This includes:

1. endorsement and supporting documentation indicating the need for additional direct service worker resources;

2. endorsement and supporting documentation indicating the need for additional nursing resources; or

3. endorsement and supporting documentation indicating the need for enhanced equipment resources (beyond basic equipment such as wheelchairs and grab bars).

E. One of the following admission requirements must be met in order to qualify for the add-on payment:

1. the recipient has been admitted to the facility for more than 30 days with supporting documentation of necessity and provision of enhanced supports; or

2. the recipient is transitioning from another similar agency with supporting documentation of necessity and provision of enhanced supports.

F. All of the following criteria will apply for continued evaluation and payment for complex care.

1. Recipients receiving enhanced rates will be included in annual surveys to ensure continuation of supports and review of individual outcomes.

2. Fiscal analysis and reporting will be required annually.

3. The provider will be required to report on the following outcomes:

- a. hospital admissions and diagnosis/reasons for admission;
- b. emergency room visits and diagnosis/reasons for admission;
- c. major injuries;
- d. falls; and
- e. behavioral incidents.

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 maintain recipient access to much needed ICF/ID services.

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 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 Wednesday, December 30, 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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Rule Title: Intermediate Care Facilities for  
Persons with Intellectual  
Disabilities  
Complex Care Reimbursements

Date Rule Takes Effect: October 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 \$1,737,992 for FY 15-16, \$1,733,480 for FY 16-17 and \$1,733,480 for FY 17-18. It is anticipated that \$756 (\$378 SGF and \$378 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 \$2,855,982 for FY 15-16, \$2,859,738 for FY 16-17 and \$2,859,738 for FY 17-18. It is anticipated that \$378 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)

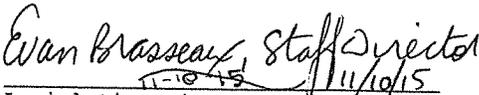
*This proposed Rule continues the provisions of the October 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid program to ICFs/ID by approximately \$4,593,218 for FY 15-16, \$4,593,218 for FY 16-17 and \$4,593,218 for FY 17-18.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

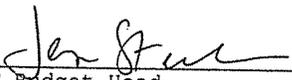
It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase the payments to ICFs/ID. The increase in payments may improve the financial standing of these facilities and could possibly cause an increase in employment opportunities.

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

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

  
\_\_\_\_\_  
Legislative Fiscal Officer  
or Designee

11-10-15  
\_\_\_\_\_  
Date of Signature

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

11/16/15  
\_\_\_\_\_  
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 October 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID.*

- 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 currently provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services provided to Medicaid recipients.*

*The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID (Louisiana Register, Volume 40, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 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 services by approximately \$4,593,974 for FY 15-16, \$4,593,218 for FY 16-17 and \$4,593,218 for FY 17-18. In FY 15-16, \$756 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 Medical Vendor Program for payments to providers for Medicaid covered services, and thereby authorizes the expenditure of these funds. This rule change should be published at this time to ensure that residents of ICFs/ID receive the most appropriate services by ensuring greater access to services designed to support the resident's needs.*

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	\$756	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$4,593,218	\$4,593,218	\$4,593,218
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$4,593,974</b>	<b>\$4,593,218</b>	<b>\$4,593,218</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 services. In FY 15-16, \$756 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	\$1,737,992	\$1,733,480	\$1,733,480
SELF-GENERATED			
FEDERAL FUND	\$2,855,982	\$2,859,738	\$2,859,738
OTHER (Specify)			
<b>Total</b>	<b>\$4,593,974</b>	<b>\$4,593,218</b>	<b>\$4,593,218</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	\$2,855,982	\$2,859,738	\$2,859,738
LOCAL FUNDS			
Total	\$2,855,982	\$2,859,738	\$2,859,738

\*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 services. In FY 15-16, \$378 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 October 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID.*

- 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 in the Medicaid program to ICFs/ID by approximately \$4,593,218 for FY 15-16, \$4,593,218 for FY 16-17 and \$4,593,218 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. However, it is anticipated that the implementation of this proposed rule may have a positive impact on employment as it will increase the payments made to ICFs/ID. The increase in payments may improve the financial standing of these facilities and could possibly cause an increase in employment opportunities.*