

# DECLARATION OF EMERGENCY

## Department of Health Bureau of Health Services Financing

### Intermediate Care Facilities for Persons with Intellectual Disabilities Reimbursement Methodology (LAC 50:VII.32903)

The Department of Health, Bureau of Health Services Financing amends 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 Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. In compliance with Act 1, the department amended the provisions governing reimbursement for non-state ICFs/IID to increase the reimbursement rates to qualifying facilities (*Louisiana Register*, Volume 46, Number 9). This Emergency Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020. This action is being taken to promote the health and welfare of Medicaid recipients in ICFs/IID by ensuring continued provider participation in the Medicaid Program.

Effective December 24, 2020, the Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement for intermediate care facilities for persons with intellectual disabilities.

#### 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

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N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	N/A
33+ beds	N/A	N/A	N/A	N/A

1. The applicable differential shall be applied anytime there is a change to the per diem rates (for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.

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 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips  
Secretary

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