

**ACT No. 330**

2020 Regular Session

HOUSE BILL NO. 835

BY REPRESENTATIVE MCMAHEN AND SENATORS JOHNS AND FRED MILLS

1 AN ACT

2 To enact Subpart D-1 of Part I of Chapter 5-E of Title 40 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 40:1248.1 through 1248.12, relative to financing  
4 by the state Medicaid program of health services in certain parishes; to create and  
5 provide for a local healthcare provider participation program; to designate the  
6 parishes in which the program may be operated; to authorize local hospital  
7 assessment payments to be made to those parishes; to authorize the establishment of  
8 special provider participation funds by those parishes; to provide requirements for  
9 the uses of monies in such special funds; to require public hearings concerning local  
10 hospital assessment payments and uses of monies derived from such payments; to  
11 authorize rural institutional provider and governmental institutional provider  
12 payment methodologies contingent upon federal approval; to provide for  
13 administrative rulemaking by the Louisiana Department of Health; and to provide  
14 for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Subpart D-1 of Part I of Chapter 5-E of Title 40 of the Louisiana Revised  
17 Statutes of 1950, comprised of R.S. 40:1248.1 through 1248.12, is hereby enacted to read  
18 as follows:

19 SUBPART D-1. LOCAL HEALTHCARE

20 PROVIDER PARTICIPATION PROGRAM

21 §1248.1. Definitions

22 As used in this Subpart, the following terms have the meaning ascribed to  
23 them in this Section:

24 (1) "Department" means the Louisiana Department of Health.

1                   (2) "Governmental institutional provider" means either of the following:

2                   (a) A nonstate governmental hospital, licensed in accordance with the  
3 Hospital Licensing Law, R.S. 40:2100 et seq., other than a rural hospital as defined  
4 in R.S. 40:1189.3.

5                   (b) A hospital included in the definition of public, nonrural community  
6 hospital as defined in the Louisiana Medicaid State Plan.

7                   (3) "Institutional provider" means a nongovernmental hospital licensed in  
8 accordance with the Hospital Licensing Law, R.S. 40:2100 et seq.

9                   (4) "Paying hospital" means an institutional provider required by the  
10 provisions of this Subpart to make a local hospital assessment payment.

11                   (5) "Program" means the local healthcare provider participation program  
12 authorized by this Subpart.

13                   (6) "Rural institutional provider" means a hospital, other than one defined  
14 in R.S. 40:1189.3, that is licensed by the department, has no more than sixty hospital  
15 beds on November 1, 2020, and meets any of the following criteria:

16                   (a) Is located in a municipality with a population of not less than seven  
17 thousand persons and not more than seven thousand five hundred persons according  
18 to the most recent federal decennial census and in a parish with a population of not  
19 less than thirty thousand persons and not more than thirty-five thousand persons  
20 according to the most recent federal decennial census.

21                   (b) Is located in a municipality with a population of not less than ten  
22 thousand persons and not more than ten thousand five hundred persons according to  
23 the most recent federal decennial census and in a parish with a population of not less  
24 than eighty thousand persons and not more than ninety thousand persons according  
25 to the most recent federal decennial census.

26                   (c) Is located in a municipality with a population of not less than three  
27 thousand persons and not more than three thousand five hundred persons according  
28 to the most recent federal decennial census and in a parish with a population of not  
29 less than thirty thousand persons and not more than thirty-five thousand persons  
30 according to the most recent federal decennial census.

1           §1248.2. Purpose

2                   The purpose of this Subpart is to generate revenue by collecting from certain  
3           institutional providers a local hospital assessment payment to be used to provide the  
4           nonfederal share of a Medicaid payment program directly benefitting the residents  
5           of a parish.

6           §1248.3. Applicability

7                   The provisions of this Subpart shall apply exclusively to the following  
8           parishes:

9                   (1) Any parish with a population of not less than forty thousand persons and  
10           not more than forty-two thousand persons according to the most recent federal  
11           decennial census.

12                   (2) Any parish with a population of not less than forty-six thousand persons  
13           and not more than forty-seven thousand persons according to the most recent federal  
14           decennial census.

15                   (3) Any parish in which a rural institutional provider is located.

16           §1248.4. Parish healthcare provider participation program

17                   A. The legislature hereby creates a local healthcare provider participation  
18           program through which a parish may deposit in a local provider participation fund  
19           established by the parish all of the following monies:

20                   (1) Any local hospital assessment payment from an institutional provider  
21           located in the parish.

22                   (2) Such other sums as the parish deems appropriate.

23                   B. Monies in the provider participation fund may be used by the parish to  
24           fund certain intergovernmental transfers and indigent care programs as provided by  
25           this Subpart.

26                   C. A parish may adopt an ordinance authorizing it to participate in the  
27           program, subject to the limitations provided in this Subpart.

28                   D. Any parishes authorized by R.S. 40:1248.3 to establish a local provider  
29           participation fund may, upon agreement of the governing authorities of each parish,

1 establish a single fund for the benefit of those parishes and a local hospital  
2 assessment applicable to the institutional providers in those parishes.

3 §1248.5. Powers and duties of parishes; limitations; inspection of provider records

4 A. The governing body of a parish may require a local hospital assessment  
5 payment authorized by this Subpart from an institutional provider in the parish. The  
6 requirement for payment shall be implemented in the manner provided for in this  
7 Section.

8 B. A parish may authorize the collection of a local hospital assessment  
9 payment authorized by this Subpart only with an affirmative vote of a majority of the  
10 members of the governing body of the parish made at a regular or special meeting  
11 held no less than thirty days following publication of a notice in the official journal  
12 of the parish of intention to authorize the collection of such payment.

13 C.(1) A parish that collects a local hospital assessment payment authorized  
14 by this Subpart shall require each institutional provider to submit to the parish a copy  
15 of any financial and utilization data required by and reported to the department.

16 (2) A parish that collects a local hospital assessment payment authorized by  
17 this Subpart may inspect the records of an institutional provider to the extent  
18 necessary to ensure compliance with the requirements of Paragraph (1) of this  
19 Subsection.

20 §1248.6. Public hearings

21 A. Any parish that collects a local hospital assessment payment authorized  
22 by this Subpart shall hold an annual public hearing on the amounts of any local  
23 hospital assessment payments that the parish intends to require during the year and  
24 how the revenue derived from those payments is to be spent.

25 B. Not later than the tenth day before the date of the hearing required by  
26 Subsection A of this Section, the parish governing authority shall publish notice of  
27 the hearing in the official journal of the parish. A representative of a paying hospital  
28 shall be entitled to appear at the time and place designated in the public notice and  
29 to be heard regarding any matter related to the local hospital assessment payments  
30 authorized by this Subpart.

1           §1248.7. Local provider participation fund; authorized uses

2                   A. Each parish that collects a local hospital assessment payment authorized  
3           by this Subpart or in which a rural institutional provider is located shall create a local  
4           provider participation fund. All income received by a parish pursuant to the  
5           provisions of this Subpart, including the revenue from local hospital assessment  
6           payments remaining after discounts and fees for assessing and collecting the  
7           payments are deducted, shall be deposited in the local provider participation fund of  
8           the parish. Monies in the fund may be withdrawn only in accordance with and for  
9           purposes specified in the provisions of this Section.

10                   B. The local provider participation fund of a parish shall consist of the  
11           following monies:

12                           (1) All revenue received by the parish attributable to local hospital  
13           assessment payments authorized by this Subpart, including any penalties and interest  
14           attributable to delinquent payments.

15                           (2) Monies received from the department as a refund of an intergovernmental  
16           transfer from the parish to the state for the purpose of providing the nonfederal share  
17           of Medicaid base rate payments, provided that the intergovernmental transfer does  
18           not receive a federal matching payment.

19                           (3) Sums which the parish elects to deposit.

20                           (4) The earnings of the fund.

21                   C. Monies in the local provider participation fund may be used only for one  
22           or more of the following purposes:

23                           (1) To fund intergovernmental transfers from a parish to the state to provide  
24           the nonfederal share of a program of Medicaid payments for the benefit of rural  
25           institutional providers or other hospitals in the parish authorized under the Medicaid  
26           state plan.

27                           (2) To pay the administrative expenses of a parish associated exclusively  
28           with activities authorized by this Subpart in an amount not to exceed five percent of  
29           the local hospital assessment payment.

1           (3) To refund a portion of a local hospital assessment payment collected in  
2           error from a paying hospital.

3           (4) To refund to paying hospitals the proportionate share of money received  
4           by a parish from the department that is not used to fund the nonfederal share of  
5           Medicaid payment program payments described in Paragraph (1) of this Subsection.

6           D. Money in the local provider participation fund shall not be commingled  
7           with other parish funds.

8           §1248.8. Local hospital assessment payments; basis; calculation

9           A. Except as provided in Subsection E of this Section, a parish that collects  
10          a local hospital assessment payment authorized by this Subpart may require an  
11          annual local hospital assessment payment to be assessed quarterly on the net patient  
12          revenue of each institutional provider located in the parish. In the first year in which  
13          the local hospital assessment payment is required, the local hospital assessment  
14          payment shall be assessed on the net patient revenue of an institutional provider as  
15          determined by the most recently filed Medicaid cost report. The parish shall update  
16          the amount of the local hospital assessment payment on an annual basis.

17          B. The amount of a local hospital assessment payment authorized by this  
18          Subpart shall be uniformly proportionate with the amount of net patient revenue  
19          generated by each paying hospital in the parish. In accordance with 42 U.S.C.  
20          1396b(w), a local hospital assessment payment authorized by this Subpart shall not  
21          hold harmless any institutional provider.

22          C. A parish that collects a local hospital assessment payment authorized by  
23          this Subpart shall set the amount of the local hospital assessment payment. The  
24          amount of the local hospital assessment payment required of each paying hospital  
25          may not exceed an amount that, when added to the amount of the local hospital  
26          assessment payments required from all other paying hospitals in the parish, and the  
27          amount of any assessment, local hospital assessment payment, or tax imposed by the  
28          state, equals an amount of revenue that exceeds six percent of the aggregate net  
29          patient revenue of all paying hospitals in the parish.

1           D. Subject to the maximum payment amount prescribed in Subsection C of  
2           this Section, a parish that collects a local hospital assessment payment authorized by  
3           this Subpart shall set local hospital assessment payments in amounts that in the  
4           aggregate will generate sufficient revenue to cover the administrative expenses of the  
5           parish for activities provided for in this Subpart and to fund the nonfederal share of  
6           a Medicaid base rate payment; except that the amount of revenue from local hospital  
7           assessment payments used for administrative expenses of the parish for activities  
8           provided for in this Subpart in a year may not exceed five percent of the total  
9           revenue generated from the local hospital assessment payment or twenty thousand  
10          dollars, whichever is greater.

11           E. A paying hospital may not add a local hospital assessment payment  
12          required by this Section as a surcharge to a patient.

13          §1248.9. Local hospital assessment payments; collection

14           The sheriff of a parish shall collect the local hospital assessment payment  
15          authorized by this Subpart. The sheriff shall charge and deduct from local hospital  
16          assessment payments collected for the parish a fee for collecting those payments in  
17          an amount determined by the parish. The fee shall not exceed the usual and  
18          customary charges imposed by the sheriff.

19          §1248.10. Eligibility of funds for federal match; conformance with requirements of  
20          federal Medicaid agency

21           To the extent that any provision of this Subpart or procedure established in  
22          accordance with this Subpart causes a local hospital assessment payment authorized  
23          by this Subpart to be ineligible for federal matching funds, the parish may provide  
24          by rule for an alternative provision or procedure that conforms to the requirements  
25          of the Centers for Medicare and Medicaid Services.

26          §1248.11. Rural institutional providers; enhanced reimbursement

27           A. Upon request from a parish in which a rural institutional provider is  
28          located, the department shall attempt in good faith to execute a cooperative endeavor  
29          agreement for the use of local provider participation fund proceeds. Notwithstanding  
30          any law to the contrary, by September 1, 2020, or as soon thereafter as such a

1 cooperative endeavor agreement is effective, the department shall file a Medicaid  
2 state plan amendment with the Centers for Medicare and Medicaid Services, referred  
3 to hereafter in this Section as "CMS", amending the Medicaid state plan provisions  
4 governing hospital reimbursement to provide that a rural institutional provider, as  
5 defined in R.S. 40:1248.1, shall be reimbursed at a rate which equals or  
6 approximates one hundred ten percent, or, if a reduction is required by CMS, the  
7 maximum amount acceptable to CMS, but in no case less than one hundred percent,  
8 of the appropriate reasonable cost of providing hospital inpatient and outpatient  
9 services, including but not limited to services provided in a rural health clinic  
10 licensed as part of a rural hospital. The new rural hospital payment methodology  
11 shall utilize prospective rates approximating costs at the time of service for inpatient  
12 acute care and psychiatric services. To ensure that rural hospital outpatient services,  
13 including those reimbursed on a cost basis and those reimbursed on a fee schedule,  
14 are reimbursed in the aggregate at one hundred ten percent of the reasonable costs  
15 or such lesser amounts as approved by CMS, but in no case less than one hundred  
16 percent of their reasonable costs, the department shall pay an interim rate for  
17 cost-based outpatient services at one hundred ten percent of reasonable cost during  
18 the year and for fee-based services paid on a claim-by-claim basis, and the  
19 department shall make quarterly estimates of Medicaid base rate payments required  
20 to bring reimbursement to the hospital for such services up to one hundred percent  
21 of reasonable costs and immediately remit such payments to the hospital, and at final  
22 settlement pay such amounts as are necessary to ensure that all outpatient services  
23 in the aggregate, both cost-based and fee schedule, are paid at one hundred ten  
24 percent of reasonable costs.

25 B. The rural institutional provider payment methodology provided for in this  
26 Subpart shall be implemented on January 1, 2021, or as soon thereafter as is  
27 practicable after such methodology is authorized by federal law.

28 §1248.12. Governmental institutional providers; enhanced reimbursement

29 A. Upon request from a parish in which a governmental institutional  
30 provider is located, the department shall attempt in good faith to execute a



1 cooperative endeavor agreement acceptable to the department. Notwithstanding any  
2 law to the contrary, by September 1, 2020, or as soon thereafter as such a cooperative  
3 endeavor agreement is effective, the department shall file a Medicaid state plan  
4 amendment with the Centers for Medicare and Medicaid Services, referred to  
5 hereafter in this Section as "CMS", amending the Medicaid state plan provisions  
6 governing hospital reimbursement to provide that a governmental institutional  
7 provider, as defined in R.S. 40:1248.1, shall be reimbursed at a rate which equals or  
8 approximates one hundred ten percent, or, if a reduction is required by CMS, the  
9 maximum amount acceptable to CMS, but in no case less than one hundred percent,  
10 of the appropriate reasonable cost of providing hospital inpatient and outpatient  
11 services, including but not limited to services provided in a rural health clinic  
12 licensed as part of a governmental institutional provider. The new governmental  
13 institutional provider payment methodology shall utilize prospective rates  
14 approximating costs at the time of service for inpatient acute care and psychiatric  
15 services. To ensure that governmental institutional provider outpatient services,  
16 including those reimbursed on a cost basis and those reimbursed on a fee schedule,  
17 are reimbursed in the aggregate at one hundred ten percent of the reasonable costs  
18 or such lesser amounts as approved by CMS, but in no case less than one hundred  
19 percent of their reasonable costs, the department shall pay an interim rate for  
20 cost-based outpatient services at one hundred ten percent of reasonable cost during  
21 the year and for fee-based services paid on a claim-by-claim basis, and the  
22 department shall make quarterly estimates of Medicaid base rate payments required  
23 to bring reimbursement to the governmental institutional provider for such services  
24 up to one hundred percent of reasonable costs and immediately remit such payments  
25 to the governmental institutional provider, and at final settlement pay such amounts  
26 as are necessary to ensure that all outpatient services in the aggregate, both  
27 cost-based and fee schedule, are paid at one hundred ten percent of reasonable costs.  
28 B. The governmental institutional provider payment methodology provided  
29 for in this Subpart shall be implemented on January 1, 2021, or as soon thereafter as  
30 is practicable after the methodology is authorized by federal law.

1           Section 2. On an expedited basis, the Louisiana Department of Health shall take all  
 2 steps necessary and available to obtain approval from the Centers for Medicare and  
 3 Medicaid Services for the state plan amendments provided for in R.S. 40:1248.11 and R.S.  
 4 40:1248.12, as enacted by Section 1 of this Act, and, immediately upon notification of such  
 5 approval, promulgate administrative rules to implement the state plan amendment.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_