**Bobby Jindal**
GOVERNOR

**Kathy H. Kliebert**
SECRETARY

# State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

**VIA ELECTRONIC MAIL ONLY**

October 17, 2014

Bill Brooks
Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health Operations
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, TX 75202

**RE: LA SPA 14-25 RAI Response**
**Disproportionate Share Hospital (DSH) Low-Income Academic Hospitals**

Dear Mr. Brooks:

Please refer to our proposed amendment to the Medicaid State Plan submitted under transmittal number (TN) 14-25 with a proposed effective date of May 24, 2014. The purpose of this amendment is to amend the provisions governing DSH payments in order to establish payments to Louisiana Low-Income Academic Hospitals. We are providing the following additional information as requested in your RAI correspondence dated August 19, 2014.

**SIGNED AGREEMENTS**

1. Please forward copies of the signed (and revised as necessary) Cooperative Endeavor Agreements (CEAs) entered into between Louisiana State University (LSU) and the six facilities that will qualify for DSH under this proposed SPA. In addition, please provide copies of all signed existing graduate medical education affiliation agreements with LSU Health Sciences Center between the private entities.

   Additionally, whether the State is a party to the financial arrangement or not, the State is ultimately responsible to ensure that the funding is appropriate. The State would be responsible for refunding any FFP if CMS finds the funding source inappropriate.

   **Response: The following are the attached executed Cooperative Endeavor Agreements (CEAs) between Louisiana State University and the six hospitals:**

   **Attachment 1: New Orleans CEA**
   **Attachment 2: Lafayette CEA**
   **Attachment 3: Lake Charles CEA**

**Attachment 4: Bogalusa CEA**
**Attachment 5: Shreveport & Monroe CEA**

**The following are the attached executed Graduate Medical Education affiliation agreements between Louisiana State University and the six hospitals:**

**Attachment 6: New Orleans GME**
**Attachment 7: Lafayette GME**
**Attachment 8: Lake Charles GME**
**Attachment 9: Bogalusa GME**
**Attachment 10: Shreveport GME**
**Attachment 11: Monroe GME**

**PUBLIC COMMENT**

2. Did the State receive any feedback or complaints from providers, other stakeholders, or the public in general regarding this proposed amendment? If so, what were the concerns and how were they addressed and resolved?

   **Response: The State has not received any formal feedback or complaints from providers, other stakeholders or the public in general regarding this proposed amendment.**

**OTHER AGREEMENTS**

3. On July 21, 2014, the State sent us a draft CEA for the Children's Medical Center, a lease amendment, and a document labeled 'Minimum Financial Performance", which was an addendum to the Children's Medical Center lease. This document provides that if the private facility does not meet a certain level of financial performance, the private facility has options that include having rent payments forgiven or applying prepaid rent that are equal to the "funding shortfall".

   Please provide the state's projected Minimum Financial Performance analysis for the first year in which New Facility Rent payments will be made by the Children's Medical Center, to include all projected revenues, sources of funding, and costs, and the minimum financial performance that would be considered acceptable.

   If the calculation of the minimum financial performance is based solely on expected or anticipated Medicaid revenues for each hospital, it must be broadened to include all patient revenues. The State's proposed methodology appears to be overly dependent on Medicaid revenues, so that the amount of rent the facility is required to pay could be dependent on Medicaid revenues. Please note that the methodology for calculating minimum financial performance must be broadened for all participating facilities to include all revenues, not just Medicaid revenues.

Additionally, please provide the following:

a. Who establishes the levels of financial performance?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

b. Does the minimum financial performance document apply only to Children's Medical Center or will the other five hospitals be required to sign this document?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

c. Who monitors the levels of financial performance?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

d. Will any quarterly or annual reports be submitted to support the level of financial performance?
**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

e. Did the Board establish any financial goals? If so, then please submit them for our review.

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

f. What are the expected or anticipated revenues?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

g. Are the expected or anticipated revenues determined on a State fiscal year or Federal fiscal year?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

h. Was a maximum amount established for the funding shortfall?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

i. Will all private facilities that qualify for DSH payments under amendment 14-025 execute Minimum Financial Performance arrangements that would allow relief to the facility if certain performance targets are not met?

**Response: The State has removed all references to "Minimum Financial Performance" from the attached CEA's.**

**Please substitute the attached revised State Plan pages for the pages originally submitted for this State Plan amendment.**

Please consider this a formal request to begin the 90-day clock. We trust that this additional information will be sufficient to result in the approval of the pending plan amendment. We look forward to negotiating with CMS to ensure approval.

As always, we appreciate the assistance of Tamara Sampson in resolving these issues.

If further information is required, you may contact Darlene A. Budgewater at Darlene.Budgewater@la.gov or by phone (225)342-3881.

Sincerely,

J. Ruth Kennedy
Medicaid Director

JRK/DAB

Attachments (11)

DSH REIMBURSEMENT METHODOLOGIES (continued)

**f. Louisiana Low-Income Academic Hospitals**

**Qualifying Criteria**

A. Hospitals Located Outside of the Lake Charles Metropolitan Statistical Area

Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Lake Charles Metropolitan Statistical Area (MSA);
b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 20 percent. Qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and
c. maintaining at least 15 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, Line 6.

B. Hospitals Located In the Lake Charles Metropolitan Statistical Area

Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the Lake Charles MSA;
b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 10 percent. To determine qualification in state fiscal year 2014, the first six month dates of service time period (July 1, 2013 through December 31, 2013) shall be used. In subsequent state fiscal years, qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and
c. maintaining at least 20 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, Line 6.

**Payment Methodology**

a) Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs subject to the Appropriations Act. DSH payments to qualifying hospitals shall not exceed the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable.
b) For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and

unreimbursed uninsured patient costs are determined based on review and analysis of these submissions. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital specific uncompensated care costs.

c) The Department shall review cost data, charge data, lengths of stay and Medicaid claims data per the MMIS system for reasonableness before payments are made.

d) The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by June 30 of each year. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed. Additional payments or recoupments, as needed, shall be made after the finalization of the CMS mandated DSH audit for the state fiscal year.

e) No payment under this section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

# TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER: **14-25**

2. STATE: **Louisiana**

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: **May 24, 2014**

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:
**42 CFR 447 Subpart E**

7. FEDERAL BUDGET IMPACT:
a. FFY **2014** $**400,914.85**
b. FFY **2015** $**369,399.31**

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
**Attachment 4.19-A, Item 1, Page 10d**
**Attachment 4.19-A, Item 1, Page 10k (4)**
**Attachment 4.19-A, Item 1, Page 10k (5)**

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
**Same (TN 10-26)**
**Same (TN 13-01)**
**Same (TN 13-01)**

10. SUBJECT OF AMENDMENT: **The purpose of this SPA is to amend the provisions governing DSH payments in order to establish payments to Louisiana Low-Income Academic Hospitals.**

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED:
**The Governor does not review state plan material.**

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:
**Kathy H. Kliebert**

14. TITLE:
**Secretary**

15. DATE SUBMITTED:
**May 23, 2014**

16. RETURN TO:
**J. Ruth Kennedy, Medicaid Director**
**State of Louisiana**
**Department of Health and Hospitals**
**628 N. 4th Street**
**PO Box 91030**
**Baton Rouge, LA 70821-9030**

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

18. DATE APPROVED:

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

22. TITLE:

23. REMARKS: **The State request a pen and ink change to blocks: 7, 8 and 9**

**Please note: Block 7 has been revised from the first submission on 6/17/14.**