

Michigan Department of Community Health

Bulletin Number: MSA 12-49

Distribution: Hospitals

Issued: October 1, 2012

Subject: Disproportionate Share Hospital (DSH) Process

Effective: November 1, 2012

Programs Affected: Medicaid, Children's Special Health Care Services (CSHCS)

Background

Title XIX of the Social Security Act authorizes grants to states for Medicaid programs that provide medical assistance to low-income families, the elderly and persons with disabilities. Section 1902(a)(13)(A)(iv) of the Act requires that states make Medicaid payment adjustments for hospitals that serve a disproportionate share of low-income patients with special needs.

On December 19, 2008, The Centers for Medicare and Medicaid Services (CMS) published a final rule in the Federal Register (73 Fed. Reg. 77904) implementing the reporting and auditing requirements for state Disproportionate Share Hospital (DSH) payments under state Medicaid programs. The final rule was effective on January 19, 2009. The final rule set forth the data elements necessary to comply with the requirements of Section 1923(j) of the Social Security Act (Act) related to auditing and reporting of DSH payments under state Medicaid programs. These requirements were added by Section 1001(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

The rule requires states to verify their methodology for computing the hospital-specific DSH limit and the DSH payments made to hospitals. The rule also added Sec. 455.204(a) to reflect Section 1923(j) of the Act's requirement that each state must submit annually an independent certified audit of its DSH program as a condition for receiving Federal payments under Sections 1903(a)(1) and 1923 of the Act. States have been required to obtain an independent certified audit, beginning with an audit of the State fiscal year (FY) 2005 DSH program and thereafter. Beginning with Medicaid State Plan years 2011 and thereafter, the State is required to recover DSH payments made to a hospital in excess of its audited DSH ceiling.

Purpose

In response to the requirements of the DSH audit, beginning with State FY 2011, unless otherwise noted, the Michigan Department of Community Health (MDCH) will modify its existing DSH process to mitigate DSH audit-related recoveries. The new process will expand MDCH's current DSH process to recalculate ceiling and payment amounts the year following the original calculation. The new process will allow hospitals to provide input into the DSH calculations by providing an opportunity to review ceiling and payment amounts, decline DSH funds, and reduce their DSH ceiling. In addition, this policy establishes a process to allocate audit-related recovered DSH funds to remaining DSH-eligible hospitals with capacity to accept additional DSH funds.

Process

MDCH will implement a multiple-step DSH process as follows.

Step 1: Initial DSH Calculation

MDCH will calculate hospital-specific DSH ceilings, DSH payment allocations and Medicaid utilization rates during the state FY as part of its Initial DSH Calculation. Consistent with current practices, inpatient and outpatient data from the hospital's cost reporting period ending during the second previous state FY will be used for the DSH ceiling, DSH payment and Medicaid utilization rate calculations. The data will be trended to the current FY for DSH ceiling calculation purposes. For example, data from hospital cost reports with FYs ending between October 1, 2010 and September 30, 2011, will be used to complete the FY 2013 Initial DSH Calculation. MDCH will maintain its current payment allocation during this step.

MDCH will share Initial DSH calculations with hospitals. Hospitals will be able to decline DSH funds following the Initial DSH Calculation findings. If a hospital declines DSH funds during the Initial DSH Calculation step, the decision is irrevocable and the hospital is not eligible for any DSH funds for that State FY. In accordance with federal statutory requirements, there may be hospitals that are unable to decline DSH in its entirety. The State will identify and work with these hospitals on a case-by-case basis. Hospitals may also request a downward adjustment to their DSH ceiling during the Initial DSH calculation step. Upon receipt of this feedback from hospitals, each hospital's calculated DSH ceiling will be reduced to the requested amount. No hospital will receive a DSH payment in excess of its initial DSH ceiling.

DSH payments will be applied against a hospital's DSH ceiling in the following order:

1. \$45 Million Pool
2. Outpatient Uncompensated Care DSH Pool
3. University with Both a College of Allopathic Medicine and a College of Osteopathic Medicine Pool (University Pool)
4. Indigent Care Agreements Pool (ICA Pool)
5. Government Provider DSH Pool (GP Pool)

Step 2: Interim DSH Settlement

DSH ceilings, DSH payments and Medicaid utilization rates are recalculated using new cost report data during the Interim DSH Settlement step to mitigate final DSH audit-related DSH recoveries. This may result in DSH recoveries for some hospitals. DSH funds will be reallocated in a manner that maintains the pool order outlined in the Initial DSH Calculation step.

As part of the Interim DSH Settlement, MDCH will recalculate hospital-specific DSH ceilings, DSH payment allocations and Medicaid utilization rates during the year following the applicable DSH year. Inpatient and outpatient data from cost reports with hospital FYs ending during the previous calendar year will be utilized for ceiling, payment, and Medicaid utilization rate recalculations. The data will not be trended because it most closely aligns with the applicable DSH year. For example, during 2013, data from hospital cost reports with FYs ending between January 1, 2012 and December 30, 2012, will be used to complete the FY 2012 Interim DSH Settlement calculations. MDCH will maintain its current pool-specific payment allocation during this step.

MDCH will share Interim DSH Settlement results with hospitals. Hospitals are able to decline DSH funds following the Interim DSH Settlement. If a hospital declines DSH funds during the Interim DSH Settlement step, the decision is irrevocable and the hospital is not eligible for any DSH funds for that State FY. In accordance with federal statutory requirements, there may be hospitals that are unable to decline DSH in its entirety. The State will identify and work with these hospitals on a case-by-case basis. Hospitals may also request a downward adjustment to their DSH ceiling during the Interim DSH Settlement step. Upon receipt of this feedback from hospitals, each hospital's calculated DSH ceiling will be reduced to the requested amount and Interim DSH Settlement payments will be issued.

Funds recovered from the \$45 Million Pool and Outpatient Uncompensated Care DSH Pool are reallocated to other qualifying hospitals within that pool based on the original formula used to allocate funding from the pool. Funds recovered from the ICA Pool will be reallocated to other qualifying hospitals within that pool.

No hospital will receive a DSH payment in excess of its Interim DSH Settlement ceiling.

Step 3: Final DSH Audit-Related DSH Redistribution

If the Final DSH Audit determines that a hospital has been paid in excess of its hospital-specific DSH ceiling, funds will be recovered from hospitals in the following order:

1. Funds from pools allocated exclusively to State government-owned or -operated, or nonState government-owned or -operated public hospitals, and
2. All other DSH Pools.

MDCH will recoup all payments that exceed audited hospital-specific DSH ceilings in the order stated above and then apply the following redistribution process. Only funds that exceed the audited hospital-specific DSH ceiling will be recovered and redistributed.

1. Funds recovered from pools allocated exclusively to State government-owned or -operated, or nonState government-owned or -operated public hospitals are reallocated to other like hospitals up to the lesser of the audited hospital-specific ceilings or other Federal limits. No hospital is to receive a DSH payment that exceeds its audited hospital-specific DSH ceiling. Unspent DSH funds will be added to the "All Other DSH Pools" described in Step 2 below. The formulas to redistribute these recouped funds are as follows:
 - a. $(\text{Eligible Hospital's Remaining Audited DSH Ceiling Capacity}) / (\sum \text{ of all Eligible Hospitals' Audited Remaining DSH Ceiling Capacity}) = (\text{Hospital Pool Factor})$
 - b. $(\text{Hospital Pool Factor}) \times (\text{Pool Amount}) = \text{Pool Payment}$
2. Funds recovered from the other DSH pools, plus any unspent DSH funds recouped from pools allocated exclusively to State government-owned or -operated, or nonState government-owned or -operated public hospitals, are reallocated to all remaining eligible hospitals proportionately based on their share of remaining audited hospital-specific DSH ceiling capacity adjusted to exclude the DSH payment amounts hospitals received from the ICA, University and GP DSH Pools during the Initial DSH Calculation and Interim DSH Settlement steps. No hospital will receive an allocation in excess of its remaining audited hospital-specific DSH ceiling capacity. The formulas to redistribute these recouped funds are as follows:
 - a. $(\text{Eligible Hospital's Remaining Audited DSH Ceiling Capacity} + \text{ICA DSH Payment Amount} + \text{University DSH Payment Amount} + \text{GP DSH Payment Amount}) / (\sum \text{ of all Eligible Hospitals' Audited Remaining DSH Ceiling Capacity} + \text{ICA DSH Payment Amount} + \text{University DSH Payment Amount} + \text{GP DSH Payment Amount}) = (\text{Hospital Pool Factor})$
 - b. $(\text{Hospital Pool Factor}) \times (\text{Pool Amount}) = \text{Pool Payment}$

Pool payments calculated for individual hospitals that are in excess of a hospital's audited DSH ceiling will be placed back into that pool. These payments will then be reallocated to the remaining hospitals in that component of the pool which have not exceeded their audited hospital-specific DSH ceiling capacity. The reallocation will be based on the funding formula specified above. Only hospitals with available audited DSH ceiling capacity will be included.

Timeline

Contingent upon CMS approval, the new DSH process will begin during the Interim DSH Settlement step for FYs 2011 and 2012. The new process will be fully implemented for all steps beginning with FY 2013.

Mergers and DSH Payment Process

Historically, when two or more hospitals merged, eligibility for DSH payments after the merger was based on the combined cost report data of the merged hospitals. The surviving hospital was able to make a one-time election to receive its DSH payment based on the cost report data submitted by the individual hospitals prior to the merger. As a result of the new DSH process, beginning with State FY 2012 DSH payments, hospitals will no

longer have the one-time election option. Hospitals that made this one-time election prior to State FY 2012 will continue to receive its DSH payment based on the cost report data submitted by the individual hospital prior to the merger. The new DSH process allows for the use of more recent cost report data, thereby negating the need for hospitals to elect to use historic data.

Manual Maintenance

Retain this bulletin until the information has been incorporated into the Michigan Medicaid Provider Manual.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Community Health, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mailed to ProviderSupport@michigan.gov. When you submit an e-mail, be sure to include your name, affiliation, and phone number so you may be contacted if necessary. Providers may phone toll-free 1-800-292-2550.

Approved



Stephen Fitton, Director
Medical Services Administration