

ADMINISTRATIVE REGULATIONS

Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.

A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated May 3, 2011.

DEPARTMENT OF SOCIAL SERVICES

Notice of Proposed Changes to the Medicaid State Plan Governing Payments for Disproportionate Share Hospital

The State Department of Social Services (DSS) proposes to terminate the current Uncompensated Care Pool and Urban Disproportionate Share Hospital programs and to implement a new Disproportionate Share Hospital (DSH) program in the Medicaid State Plan. The State Plan Amendment (SPA) will be submitted to the Federal Centers for Medicare and Medicaid Services (CMS) within the Department of Health and Human Services.

Changes to Medicaid State Plan

Based upon the Legislative Budget for the SFY 2012 and SFY 2013 biennium and actions to date by the General Assembly, it is anticipated that the Medicaid State Plan will be amended to end the current UCP DSH and Urban DSH program effective June 30, 2011 and to implement a new Disproportionate Share Hospital program for acute care hospitals effective July 1, 2011. The new program will make payments to qualifying private hospitals in proportion to their overall uncompensated costs for inpatient and outpatient hospital services. While implementing legislation is still being drafted, public notice is required at this time under federal regulations.

Fiscal Information

Based upon preliminary estimates, it is anticipated Disproportionate Share Hospital payments will total approximately \$268,400,000 annually.

Additional Information

In accordance with federal requirements governing the Medicaid program, the department will provide upon request: copies of the proposed amendments to the Medicaid State Plan; proposed DSH payments for SFY 2012 and SFY 2013; explanation of DSH payment and settlement methodologies; and justifications related to the State Plan revisions. Written, phone and email requests should be directed to Christopher A. LaVigne, Office of Certificate of Need and Rate Setting, Department of Social Services, 25 Sigourney Street, Hartford, CT 06106-5033 (Phone 860-424-5719, Fax 860-424-4812, christopher.lavigne@ct.gov). In addition, copies of the proposed amendment may be obtained at each of the DSS regional offices and on the DSS web site: www.dss.state.ct.us. Go to "Publications" and then to "News and Updates". Written comments must be received by the Department on or before July 1, 2011.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

- (8) Additional Disproportionate Share Payments for Private Acute Care Hospitals (short-term General Hospitals) which provide Uncompensated Care under section 1923 of the Social Security Act.

In addition to the disproportionate share payments set forth in previous sections, disproportionate share payments are made to any qualifying short-term General hospital lawfully operating within the state which provides uncompensated care. No payments shall be made under this section to (1) any hospital which on July 1, 2011, is within the class of hospitals licensed by the Department of Public Health as a children's hospital, or (2) a short-term acute care hospitals operated exclusively by the state other than a short-term acute care hospital operated by the state as a receiver are specifically excluded under this Section in accordance with Public Act 97-2 Public Act 99-173, respectively, of the Connecticut General Assembly.

CRITERIA – In order to qualify as a disproportionate share hospital under this section, a hospital must meet the two following conditions.

1. Be a lawfully operating acute care hospital within the State providing uncompensated care services.
2. Each hospital must meet the requirements of Section 1923(d) of the Social Security Act.

PAYMENT ADJUSTMENT – Uncompensated care includes the actual cost of care provided free of charge as either bad debt or charity care and the difference between the costs incurred and the payments received by disproportionate share hospitals in provided services to patients eligible for the State Medical Assistance Program and the General Assistance Program. The single state agency makes payments to qualified disproportionate share hospitals based upon the costs they incurred for uncompensated services, any residual obligations or settlements outstanding from the Connecticut Uncompensated Care Program, the federal upper limit on aggregate state disproportionate share payments which are eligible for federal matching payments, and the amount determined to be available under state law.

The Commissioner of DSS determines the amount of the disproportionate share payments to be made under this section based on information provided by the office of Health Care Access (OHCA). The source data for calculating payments is based on data from OHCA.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

1. For the period April 1, 1994 through June 30, 1994 and for the period July 1, 1994 through September 30, 1994, CHHC shall calculate and recommend to DSS of the interim disproportionate share payment distribution to be made to each hospital under this section which shall be determined as follows:
 - I. (A) Determine the amount of uncompensated care pool payments for the hospital in the previously authorized budget for the fiscal year commencing October 1, 1993.
 - (B) Calculate the sum of the result of subdivision (a) for all hospitals.
 - (C) Divide the result of (A) by the result of (B)
 - (D) The disproportionate share payment shall be the result of multiplying the amount available for disproportionate share payment adjustments by the result of (C).

2. For the fiscal year commencing October 1, 1994 through June 30, 2011, the interim disproportionate share payment to each hospital under this section shall be calculated as follows:
 - I. (A) For each hospital determine the difference between the costs incurred and the payments received by disproportionate share hospitals in provided services to patients eligible for the State Medical Assistance Program and the General Assistance Program, plus the authorized amount of uncompensated care plus the cost of initiatives to expand primary care and improve costs effectiveness of hospital care.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

- (B) Calculate the sum of the result of subdivision (A) of this subsection for all hospitals.
 - (C) Divide the result (A) by result (B).
 - (D) The disproportionate share payment shall be the result of multiplying the amount available for disproportionate share payment adjustments by the result of (c).
- II. Any residual payments which may be made for audit adjustments and other payment adjustments pursuant to the termination of the uncompensated care pool.
- III. Interim payments will be made on a periodic basis. All interim disproportionate share payments made under this section shall be subject to final settlement following the close of the fiscal year as calculated by the Office of Health Care Access and recommended to DSS based on audited data. Interim disproportionate share payments made under this section may be reallocated to hospitals as a result of this process. Adjustments may also be made to individual hospital payments at the discretion of the Commissioner as result of failure to meet state statutory requirements.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

3. For the fiscal year commencing October 1, 1999 through June 30, 2011, the disproportionate share payment to each hospital under this section shall be calculated as follows:
 - I. (A) For each hospital, using actual audited data for the most recently completed federal fiscal year, determine the difference between the costs incurred and the payments received by disproportionate share hospitals in providing services to patients eligible for the State Medical Assistance Program, and the General Assistance Program, plus the cost of uncompensated care.

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State Connecticut

- (B) Calculate the sum of the result of subdivision (A) of this subsection for all hospitals.
 - (C) Divide the result of (A) by the result of (B).
 - (D) The disproportionate share payment shall be the result of multiplying the amount available for disproportionate share payment adjustments by the result of (C).
- II. Any residual payments which may be made for audit adjustments and other payment adjustments pursuant to the termination of the uncompensated care pool.
- III. Payments will be made on a periodic basis. For federal fiscal years beginning October 1, 1999 through September 30, 2010, all disproportionate share payments made under this section including reallocation of payments to hospitals in order to comply with the upper payment limit on hospital disproportionate share payments adjustments, shall be deemed final except that disproportionate share payments made under this section may be adjusted in order to comply with other federal requirements. Adjustments may also be made to individual hospital payments at the discretion of the Commissioner as a result of failure to meet state statutory requirements.
- IV. For the quarter ending September 30, 2001, no negative adjustment to the disproportionate share payments to hospitals for purposes of implementing the final one-quarter of the disproportionate share final settlement for the hospital fiscal year commencing October 1, 1998 shall be made. Any hospital with a positive adjustment to the disproportionate share payments for purposes of implementing the remaining one-quarter of the hospital fiscal year 1999 disproportionate share final settlement shall receive payment of the adjustment through funds appropriated for said purpose.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

- V. For the fiscal quarter ending September 30, 1998, or the hospital fiscal year ending September 30, 1999, the Department may, within available appropriations, make payment of any final settlement amount determined to represent any and all claims arising out of any incorrect payments to any teaching hospital located in a distressed municipality, as defined in section 32-9p of the Connecticut General Statutes. For the purpose of this section, a teaching hospital is defined as a short-term General Hospital that has an on-site accredited university curriculum for the training of physicians, which is not also a state facility.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

- (9) Additional Disproportionate Share Payments to short-term General Hospitals located in distressed municipalities and targeted investment communities with enterprise zones.

In addition to the disproportionate share payments set forth in previous sections, disproportionate share payments are made to any qualifying short-term General Hospital lawfully operating within the state that provides uncompensated care within a distressed municipality, as defined in section 32-9p of the Connecticut General Statutes, with a population greater than seventy thousand or within a targeted investment community with an enterprise zone, as defined in section 32-70 of the Connecticut General Statutes, with a population greater than one hundred thousand.

CRITERIA – In order to qualify as a disproportionate share hospital under this section, a hospital must meet the three following conditions:

1. Be a lawfully operating short-term General Hospital within the state providing uncompensated care services.
2. Be located within a distressed municipality as defined in section 32-9p of the Connecticut General Statutes, with a population greater than seventy thousand or be located in a targeted investment community with an enterprise zone, as defined in section 32-70 of the Connecticut General Statutes, with a population greater than one hundred thousand.
3. Each hospital must meet the requirements of Section 1923(d) of the Social Security Act.

PAYMENT ADJUSTMENT – Any payment under this section, together with payments under other sections of Attachment 4.19A of the Medicaid State Plan pertaining to disproportionate share payments to hospitals shall not exceed a hospital's uncompensated care costs. Uncompensated care includes the actual cost of care provided free of charge as either uninsured bad debt or charity care and the difference between the costs incurred and the payments received by disproportionate share hospitals in providing services to patients eligible for the State Medical Assistance Program and the State Administered General Assistance Program.

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State Connecticut

Payments shall be made to each of the qualifying short-term general hospitals on a quarterly basis through June 30, 2011, as follows:

1. For each of the qualifying hospitals based on the most recently filed cost report period, calculate a ratio of the number of inpatient hospital discharges paid for by Medicaid on a fee-for-service basis to the total number of inpatient hospital discharges paid for by Medicaid on a fee-for-service basis.
2. For each qualifying hospital, multiply the amount appropriated for payment under this section by the ratio calculated in (1) above.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

- (17) Additional Disproportionate Share Payments for Acute Care Hospitals (short-term General Hospitals) which provide Uncompensated Care under Section 1923 of the Social Security Act.

In addition to the disproportionate share payments (DSH) set forth in previous sections, disproportionate share payments are made to qualifying short-term General Hospitals lawfully operating within the state which provide uncompensated care. Short-term Children's General Hospitals as defined at Section 19-13D(1)(b)(A) of the Public Health Code of the State of Connecticut and short-term acute care hospitals operated exclusively by the state other than a short-term acute care hospital operated by the state as a receiver are specifically excluded under this Section in accordance with Public Act 11- 6 of the Connecticut General Assembly.

CRITERIA – In order to qualify as a disproportionate share hospital under this section, a hospital must meet the two following conditions.

1. Be a lawfully operating acute care hospital within the State providing uncompensated care services.
2. Each hospital must meet the requirements of Section 1923 (d) of the Social Security Act (Act).

DEFINITIONS – For purposes of this section of the State Plan

1. DSH final payments – means the recalculation of payments based on upper payment limits using the actual final data for the state plan rate year, consistent with the methodology required by Section 1923(g) of the Act and CMS – 2198-F.
2. DSH interim payments – means prospective DSH payments using estimates of eligible hospitals' uncompensated care costs based on the most recent year's final data.
3. DSH Settlement –means the difference between each hospital's DSH final payments and DSH interim payment. This is the retrospective reconciliation to actual uncompensated care costs in order to apply the statutory hospital-specific limits.
4. Eligible patients – means patients eligible for the State Medical Assistance Program and the uninsured.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

5. Hospital-specific upper limit – means the uncompensated care costs of furnishing inpatient and outpatient hospital services to Medicaid eligible individuals and individuals with no source of third party coverage for the inpatient and outpatient hospital services they receive.
6. State plan rate year - means the federal fiscal year subject to the annual audit.
7. Uncompensated care costs – means the costs incurred by that hospital in furnishing services during the year to Medicaid patients and the uninsured, less other Medicaid payments made to the hospital, and payments made by uninsured patients.
8. Uninsured patients - individuals with no source of third party coverage for the inpatient and outpatient hospital services they receive.
9. Uninsured payments – means self-pay revenues during the year they are received, irrespective of whether such revenues are applicable to a prior period.

PAYMENT ADJUSTMENT – Uncompensated care is the difference between the costs incurred and the payments received by disproportionate share hospitals in providing inpatient and outpatient hospital services as defined in Sections 1905(a)(1) and 1905(a)(2) of the Act to patients eligible for the State Medical Assistance Program and uninsured patients. Pursuant to Section 1923(g)(1) of the Act, costs must be calculated in accordance with Federal accounting standards. The single state agency makes payments to qualified disproportionate share hospitals based upon the costs incurred for uncompensated services, as defined in Section 1923(g), the federal upper limit on aggregate state disproportionate share payments which are eligible for federal matching payments as defined in Section 1923(f) and the amount determined to be available under state law.

The Commissioner of DSS determines the amount of the disproportionate share payments to be made under this section based on information provided by eligible short-term acute care hospitals including but not limited to the hospital's Medicare 2552-96 cost reports, audited financial statements, other hospital accounting records and data necessary to comply with Section 1923(j) of the Act, data filed with the Office of Health Care Access unit of the Department of Public Health, data filed with the Department of Social Services and the State's Medicaid Management Information Systems (MMIS).

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Connecticut

1. For the period July 1, 2011 through September 30, 2013, the DSH interim payment to each hospital under this section shall be calculated as follows:
 - (A) For each hospital the estimated uncompensated costs of all eligible patients will be based on FFY 2009 data as filed and finalized with the Office of Health Care Access unit of the Department of Public Health, subject to adjustments made by the Department of Social Services.
 - (B) Calculate the sum of the result of subdivision (A) of the subsection for all hospitals.
 - (C) Divide the results of (A) by the result of (B).
 - (D) The DSH interim payment shall be the result of multiplying the amount available for disproportionate share payment adjustments, under this section, by the result of (C).

2. For federal fiscal years 2011, 2012 and 2013, determine the difference between the cost incurred and payments for providing services to patients eligible for the Medical Assistance Program and uninsured patients using actual FFY 2009 data for the state rate year, consistent with the methodology required by Section 1923(g) of the Act and CMS – 2198-F as follows:
 - (A) Calculate each hospital's hospital-specific upper limit using the actual data for the State plan rate year.
 - (B) Sum the results of (A) for all hospitals.
 - (C) Divide the results of (A) by the result of (B).
 - (D) Each hospital's projected DSH final payments shall be the result of multiplying the total DSH interim payment, by the result of (C).
 - (E) For each hospital with a projected DSH final payment that exceeds its hospital-specific upper limit, calculate its reduction by subtracting the subdivision (A) amount from the subdivision (D) amount. The projected DSH final payment less the reduction will be the hospital's DSH final payment.
 - (F) Calculate the statewide reduction by summing the results of (E).

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(G) For each hospital with a hospital-specific upper limit that exceeds its projected DSH final payment, calculate the room under the upper limit by subtracting the subdivision (D) amount from the subdivision (A) amount.

(H) Sum the result of subdivision (G).

(I) For each hospital with room under its upper limit, divide the results of (G) by the result of (F).

(J) Calculate the reallocation to hospitals with room under their upper limit by multiplying the results of (I) by the results of (G). The projected DSH final payment plus the reallocation will be the hospital's DSH final payment

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3. Following the completion of the DSH Audit pursuant to Section 1923(j)(2) of the Act, the DSH settlement will be calculated by subtracting each hospital's DSH interim payment from its DSH final payment. At the Commissioner's discretion and in accordance with Section 1923(j)(2) of the Act, the DSH settlement will be implemented for all participating hospitals, or alternatively the DSH settlement will be limited to reductions for those hospitals over the hospital specific DSH limit with a reallocation to the other hospitals. Adjustments may also be made to individual hospital payments at the discretion of the Commissioner as a result of failure to meet state and federal statutory requirements.

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