

**STATE OF RHODE ISLAND
DEPARTMENT OF HUMAN SERVICES**

6/23/2011PUBLIC NOTICE OF PROPOSED AMENDMENT TO DHS STATE PLAN

In accordance Rhode Island General Laws (RIGL) 42-35, notice is hereby given that the Department of Human Services proposes to amend the following section of the Rhode Island State Plan under Title XIX of the Social Security Act:

DISPROPORTINATE SHARE HOSPITAL POLICY

The Department of Human Services (DHS) submitted to the Federal Centers for Medicare and Medicaid Services (CMS) an amendment (SPA) to the State of Rhode Island's Medicaid State Plan relative to the Disproportionate Share Hospital payments to be made on or after June 1, 2011 to:

1. Change the base year for determining qualifying uncompensated care costs for non-government and state operated hospitals from hospital fiscal year 2007 to hospital fiscal year 2009;
2. Revise the limit on payments to state operated hospitals (Pool B);
3. Revise the limit on payments to women and infant specialty hospitals (Pool C);
4. Revise the limit on payments to non-government hospitals (Pool D); and
5. Make textual revisions in the SPA consistent with the foregoing proposed changes.

Fiscal Impact: Subject to CMS approval of the SPA, DHS estimates that the above revisions will result in an increase of approximately \$2.5 million to the aggregate expenditures by the Rhode Island Medical Assistance Program for the disproportionate share hospital payments in Federal fiscal year 2011 when compared to estimated aggregate expenditures in Federal fiscal year 2010.

A Fiscal Note is available upon request. In the development of the new rules, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information. (Complies with 42-35-3(3).) The health, safety, and welfare of the public preclude any economic impact that may be incurred as a result of these regulations.

These proposed rules are accessible on the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) or available in hard copy upon request (401 462-2018 or RI Relay, dial 711). Interested persons should submit data, views or written comments to Kimberly Merolla-Brito, Office of Policy Development, RI Department of Human Services, Louis Pasteur Building, 57 Howard Avenue Fl # 1, Cranston, RI 02920.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on the proposed State Plan Amendment if requested by twenty-five (25) persons, or an agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Human Services does not discriminate on the basis of race, color, national origin or handicap in acceptance for or provision of services or employment in its programs or activities gender identity or expression, sexual orientation, religious belief, political belief or disability.

Note: Under the terms and conditions of the Global Consumer Choice Waiver a Category II Change is a change that could be made as a State Plan Amendment or through authority in sections 1915(b), 1915(c), 1915(i) or 1915(j) of Title XIX without any change in the terms and conditions of the Global Waiver or demonstration authority under Section 1115 of Title XIX.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF RHODE ISLAND
Disproportionate Share Hospital Policy

Disproportionate Share Hospitals

I. Criteria

For purposes of complying with Section 1923 of The Act, the Department of Human Services, the designated Single State Agency for the Title XIX Medical Assistance Program, will determine which hospitals can be deemed eligible for a disproportionate share payment adjustment.

1. Rhode Island defines disproportionate share hospitals as those licensed hospitals within the State of Rhode Island providing Inpatient and outpatient services meeting the following criteria:
 - A. A Medical Assistance Inpatient utilization rate at least one (1) standard deviation above the mean medical assistance Inpatient utilization rate for hospitals receiving medical assistance payments in the State; or
 - B. A low-income inpatient utilization rate exceeding twenty five (25) percent (however in no event shall the Medical Assistance Inpatient utilization rate be less than one (1) percent; or
 - C. A Medical Assistance inpatient utilization rate of not less than one (1) percent, and
 - D. The hospital has at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to Individuals entitled to such services under the Rhode Island Medical Assistance Program. This requirement does not apply to a hospital where: a) the inpatients are predominately individuals under eighteen (18) years of age; or. b) does not offer non-emergency obstetrical services as of 12/22/87.

II. Definitions'

- I. Medical Assistance inpatient utilization rate means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for Rhode Island Medical Assistance Program In a period (regardless of whether the services were furnished on a fee-for-service basis or through a managed care entity), and the denominator of which is the total number of the hospital's Inpatient days In that period.

2. Low Income utilization rate means, for a hospital, the sum of
- A. A fraction (expressed as a percentage), the numerator of which is the sum (for the hospital's fiscal year designated in Section 111,1, F) of the total medical assistance revenues paid the hospital for patient services (regardless of whether the services were furnished on a fee-for-service base or through a managed care entity), and the amount of the cash subsidies for patient services received directly from State and local governments, and the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in that period; and
 - B. A fraction (expressed as a percentage) the numerator of which is the total amount of the hospital's charge for inpatient hospital services which are attributable to charity care in the hospital's fiscal year designated in Section III, 1,F. less the portion of any cash subsidies described in subparagraph (A) in that period reasonably attributable to inpatient hospital services, and the denominator of which is the total amount of the hospital's charges for Inpatient hospital services in the hospital in that period.

The numerator under subparagraph (6) shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance).

III. Payment Adjustment

- 1. For Federal fiscal year 2011, and for Federal fiscal years thereafter, the State shall make payment on or after October 1" to each qualifying facility in accordance with the following formula;
 - A. For all licensed hospitals within the State of Rhode Island that meet or exceed the criteria set forth in section 1923(b) of the Social Security Act, \$1,000 plus the proportional share of \$232,379 That sum shall be distributed among the qualifying facilities in the direct proportion that the low-income utilization rate in each facility exceeds 25 percent.

- B. For state operated hospitals, which exceed the Medical Assistance inpatient utilization rate by more than one standard deviation, there shall be an additional payment of \$10,000 plus the proportional share of \$4,302,835 That sum shall be distributed among the qualifying facilities in the direct proportion of the weighted average yielded by the multiplication of the percentage points that the medical assistance utilization rate exceeds one standard deviation unit above the mean, times the total dollars expended for medical assistance care.

- C. For women and infant specialty hospitals licensed within the State of Rhode Island (i.e., hospitals with more than 5,000 births annually and a neo-natal intensive care unit) which exceed the Medical Assistance In-patient utilization rate by more than one standard deviation unit or Whose low-income utilization exceeds 25%, \$1,000 plus the proportional share of \$3,409,058 That sum shall be distributed among the qualifying facilities in direct proportion of the weighted average yielded by the multiplication of the percentage points that the low income utilization rate exceeds 25% times the total dollars expended for low income care.

- D. For non-government hospitals licensed within the State of Rhode Island, whose Medicaid inpatient utilization rate exceed 1 %, there shall be an additional payment not to exceed \$125.4 million to compensate hospitals for uncompensated care (as defined below) distributed among the qualifying hospitals in direct proportion to the individual qualifying hospital's uncompensated care to the total uncompensated care costs for all qualifying hospitals. To the extent that audit findings demonstrate that DSH payments exceeded the documented hospital-specific limit, the excess DSH payments are distributed by the State to other qualifying hospitals in direct proportion to the individual qualifying hospital's uncompensated care to the total uncompensated care costs for all qualifying hospitals as an integral part of the audit process.

- E. Women and infant specialty hospitals which qualify shall be paid only in accordance with sections A, C, and D. Psychiatric hospitals Which qualify shall be paid only in accordance with A. State hospitals which qualify shall be paid only in accordance with sections A and B.

TN No. 11-005

Supersedes'

TN No. 05-004

Approval Date:

Effective Date: June 1, 2011

- F. Uncompensated care is defined as stated in Section 1923 of the Social Security Act and issued by CMS in the Medicaid DSH reporting and auditing final regulation on December 19, 2008. (Federal Register/Vol. 73, No. 245)

The utilization rates, costs, and uncompensated care for the most recently completed hospital fiscal year for which data is available (hospital fiscal year 2009) will be utilized to determine each hospital's payment. 2009 uncompensated care costs shall be indexed by the uncompensated care index as defined in Rhode Island General Law 40-8.3-2(5) for each subsequent year to calculate the costs for the year in which payments are made. The total payment to a qualifying facility will not exceed the facility specific caps described in Section 1923(g).

- G. Rhode Island's share of any national disproportionate share allocation in addition to the amounts authorized under Section III and any undistributed monies from section A, C, and D (should no hospitals qualify in those categories) shall be added to section B and distributed by the same proportion and methodology.

- H. Notwithstanding any of the foregoing provisions in Section III, non-government hospitals will receive additional disproportionate share payments if they meet the following criteria:

1. The hospital meets or exceeds criteria set forth in Section 1923(d) of the Social Security Act and as such criteria are more particularly defined in Section 1.1.C and D herein.
2. The hospital is licensed within the State of Rhode Island.
3. The hospital provides psychiatric services to clients not defined as prison inmates under the care of the Department of Mental Health, Retardation and Hospitals (MHRH) or the Department of Children, Youth and Families (DCYF).
4. The hospital enters into a written agreement with the Department of MHRH or DCYF for the provision of the services listed in subsection H.3 above.

The payment amount will be in direct proportion to each hospital's uncompensated care costs relative to the uncompensated care costs of all qualifying hospitals. Each qualifying hospital will receive quarterly payment from a pool. Total payments from this pool will not exceed \$2.4 million annually.

TN No. 11-005
Supersedes-
TN No. 05-004

Approval Date: Effective Date: June 1, 2011

- I. For purposes of applying and allocating the State DSH allotments established Under Section 1923 (I) of the Act, the department shall allocate the allotment ratably to the pools established under sections A, B, C, O and H.

TN No. 11-005

Supersedes

TN No. 05-004

Approval Date:

Effective Date: June 1, 2011

The state has in place a public process, which complies with the requirements of Section 1902(a)(13)(A) of the Social Security Act.

TN No. 11-005

Supersedes

TN No. 97-007

Approval Date:

Effective Date: June 1, 2011