DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
(LAC 50.V.2501, 2701, 2705 and 2707)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2501, 2701, 2705, and 2707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register,* Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule which amended the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register,* Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the June 29, 2010 Emergency Rule to revise the provisions governing DSH payments to allow for additional payments after completion of the Centers for Medicare and Medicaid Services' mandated independent audit for the state fiscal year (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective February 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Medical Assistance Program—Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - B.3. ...

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. After completion of a Center for Medicare and Medicaid Services' (CMS) mandated independent audit for the state fiscal year, additional payments may occur subject to the conditions specified in §2701.B.1, §2705.D.2, and §2707.B. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

B.5. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), amended LR 36:512 (March 2010), LR 39:

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. …

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 11 of the 2010 Regular Session of the Louisiana Legislature, and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department

receives the required certifications. Adjustments to the certification amounts shall be made in accordance with the final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. Private, non-rural community hospitals (other than freestanding psychiatric hospitals) shall be reimbursed as follows:

1. If the hospital's qualifying uninsured cost is less than 4 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 4 percent of total hospital cost, but less than 7 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 7 percent of total hospital cost, but less than or equal to 10 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 10 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 10 percent of total hospital cost and 80 percent of an amount equal to 5 percent of total hospital cost.

5. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's cost-to-charge ratio as required by the CMS DHS audit rule for the applicable cost report period.

D. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2009 through June 30, 2010.

1. - 5. Repealed.

E. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in C.1-C.5 above shall be reallocated to these qualifying hospitals based on their reported uninsured costs. The $10,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2011 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, $1,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and $1,000,000 shall be allocated to freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 4 percent of total hospital cost and:

a. be a public or private non-rural community hospital, as defined in §2701.A. that has a Medicaid enrolled distinct part psychiatric unit; or

b. enrolled in Medicaid as a freestanding psychiatric hospital that pursuant to 42 CFR 441.151 is accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

2. Payment shall be calculated by:

a. Dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric unit's uninsured days and multiplying by $1,000,000.

b. Dividing each qualifying freestanding psychiatric hospital's uninsured days by the sum of all qualifying freestanding psychiatric hospital's uninsured days and multiplying by $1,000,000.

H. The DSH payment shall be made as an annual lump sum payment.

I. Hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008 and subsequent years may also qualify in the federally mandated statutory hospital category.

J. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2705. Small Rural Hospitals

A. - D.1.b. ...

2. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from small rural hospitals based on these reported audit results. If the small rural hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all small rural hospitals.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2707. Public State-Operated Hospitals

A. ...

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment shall be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

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