

Disproportionate Share Hospital Payments (DSH)

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DSH History

DSH – The Early Years

- The DSH program was established by Congress to provide payments to those hospitals that have a disproportionate share of low income patients and uncompensated care.
- In the late 1980's and early 1990's states used creative financing mechanisms and overall federal expenditures grew from approximately \$1 billion to \$12 billion.
- In the early 1990's Congress took action to limit the amount of DSH that the federal government would pay. Arizona was the last state to have a DSH program approved.

DSH History

- Arizona started the DSH Medicaid payments program in SFY 1992. Originally the program allocated funds to both Maricopa and Pima County hospitals, the Arizona State Hospital and \$15 million to private hospitals.
- At the time that the original DSH program was established, the state set up a series of Intergovernmental Transfers (IGT) to return a portion of the payments made to public hospitals to the State General Fund.

DSH and Proposition 204

- In November 2000 the voters enacted Proposition 204 which expanded the AHCCCS program up to 100% of the Federal Poverty Level.
- In the spring of 2001, legislation was enacted that implemented Proposition 204. The bill resulted in the elimination of the long-standing requirement that county governments be responsible for providing indigent care and some eligibility services.
- In exchange for the elimination of this liability, the counties gave up all benefits from DSH payments.
- The Proposition 204 expansion resulted in a dramatic shift of financial responsibility to the State and the Medicaid program. The State started paying for a large portion of the indigent care for which the counties previously had been responsible.
- After the enactment of Proposition 204, the state continued to make the DSH payments to public providers and rely on IGTs to return all of the DSH monies to the General Fund to help offset the state costs of Proposition 204.

SES Elimination and DSH Impact

- As a result of the economic downturn in the 2001-2002 the State eliminated a state only emergency services program in FY 2002. This program compensated hospitals for the costs of emergency services provided to undocumented individuals.
- When the State eliminated this program an increase was made of \$15 million in DSH payments to hospitals. Maricopa Medical Center received \$4.2 million of this funding and continued to receive this level of funding since.

Maricopa Integrated Health Systems District Creation

- In 2003 legislation was enacted that provided Maricopa County voters with the opportunity to create the Maricopa Integrated Health Systems District which included an elected governing board and taxing authority.
- One of the important policy concerns and principles that evolved as part of the legislation was that policy-makers wanted to ensure the creation of the district did not negatively impact the General Fund and the ability of the State to allocate DSH monies.
- Language was included to continue the intergovernmental transfers through Maricopa County.

Waiver Renewal

Waiver Renewal Negotiations and DSH Requirements

- In 2006, the AHCCCS Administration worked with the Centers for Medicare and Medicaid Services (CMS) to negotiate a new 5-year Arizona Waiver, which was finalized in November 2006.
- During this negotiation CMS mandated that the State restructure the current DSH process and that one of the changes would include the use of Certified Public Expenditures (CPEs) for Public Hospitals.
- Section 52 (attached) of the Waiver's Standard Terms and Conditions establishes a Certified Public Expenditure (CPE) process for the payment of DSH funds. CMS officials assured AHCCCS staff during several conversations that the allocation of the federal reimbursement for CPEs is a local policy issue to be determined by the State.
- The waiver agreement also includes in Section 51 a requirement that health care providers receive and retain 100% of their Medicaid payments. AHCCCS was also assured by CMS during the waiver negotiation that the distribution of the federal reimbursement of a DSH CPE is a State issue and retaining those funds at the State level is not a violation of Section 51.

CMS Policy

- The CMS policy perspective with regards to CPEs and DSH was provided in comments made by the agency in addressing responses to a proposed rule. Specifically CMS stated “*To the extent a State agency chooses to distribute those Federal funds [that are reimbursement for a CPE] in a manner that is not proportional to the costs incurred by other governmental units within the State, CMS does not plan to interfere with such decisions between States, local governments and/ or governmentally-operated health care providers.*”

DSH Structure

- Federal Law requires that if any hospital meets the minimum DSH requirements they must receive a payment.
- Federal Law creates standards to determine maximum payment amount for uncompensated care— often referred to as the OBRA limit.
- Uncompensated Care includes:
 - Amount that Medicaid does not Cover Costs;
 - Amount of Uninsured Uncompensated Care.
- DSH Methodology created 4 different pools

DSH Pools

1. Private Pool (Federally Mandated) Hospitals one standard deviation above the Medicaid Inpatient Utilization.
2. Private Pool (Federally Mandated) – Hospitals 25% above the Low Income Utilization Rate.
3. Private Pools – Exceeds statewide average low-income rate or provides at least 1% Medicaid bed days.
4. Public Pools (Arizona State Hospital – Maricopa Medical Center).

DSH FY 2008 Payment

- Private Hospital Payments were made under the new methodology in the fall of 2008. (Amounts attached)
- As a result of the CPE Requirement:
 - The language incorporated in the FY 2008 budget bills conformed with the CMS DSH restructuring.
 - The language continues the allocation of DSH monies to MMC and all other hospitals that has been in place since the refinancing of the state emergency services program in FY 2002.
 - Maricopa Medical Center certified the amount as required by the law before the end of FY 2008 (\$86.2 m).
 - AHCCCS Deposited \$53 m into the General Fund
 - MIHS requested that this payment be reviewed by an administrative law judge.
 - This request for a hearing has been set aside until April

DSH FY 2009

- As part of the budget plan for FY 2009 the legislature eliminated all the state match for Private DSH payments.
- Per the requirements of the AHCCCS DSH Waiver document – all qualifying hospitals must receive a minimum of \$5,000.
- AHCCCS has sent to CMS a DSH Waiver amendment that would reduce the private pool payment for FY 2009 from \$26.1 million to \$500,000.
- Maricopa Integrated Health Systems still must certify the amount of DSH qualifying expenses by May 1, 2009.