

DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

SUBJECT: Disproportionate Share Hospital (DSH) Audit

DESCRIPTION:

Statement of Necessity

The Division of Medical Services (DMS) amends its Disproportionate Share Hospital (DSH) payment methodology to allow funds to be redistributed to other eligible hospitals upon completion of an annual, independent, certified audit of DSH payments in accordance with federal regulations. Redistribution of overpayment DSH funding is necessary for the state to best utilize funding that becomes available once a certified audit and recoupment has occurred. Any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit.

Summary of Changes

To establish the above redistribution methods, DMS issues a state plan amendment (SPA) and adds a new section, 250.460, to the Hospital Provider Manual. The language of these two additions state:

In addition to any other audits which may occur, independent certified audits of the DSH payments shall be conducted annually in accordance with 42 CFR 455.301 and 42 CFR 455.304. Reporting of the audit shall follow the guidelines stated in 42 CFR 447.299. In accordance with 42 CFR 455.304(e), any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit, in the following manner:

- A. The amount of the DSH payment made to the acute care hospital will be recouped by the State of Arkansas to the extent necessary to reduce the DSH payment to an allowable amount.
- B. Amounts recouped from acute care hospitals with payments in excess of the audited hospital specific DSH limits will be placed into an acute care hospital redistribution pool. Redistribution will be made to remaining acute care hospitals that do not exceed their hospital specific DSH limit. The allocation will be made based on these remaining acute care hospitals' available uncompensated care. No acute care hospital shall exceed its hospital specific DSH limit after redistribution.
- C. Additionally, DSH funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

PUBLIC COMMENT: A public hearing was held on this rule on June 26, 2024. The public comment period expired on July 14, 2024. The agency indicated that it received no public comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

Q. The rule states that overpayments of DSH funds shall be redistributed “in accordance with 42 CFR 455.304(e).” This citation may be incorrect – 42 CFR § 455.304(e) reads, in its entirety: “To ensure a period for developing and refining reporting and auditing techniques, findings of State reports and audits for Medicaid State Plan years 2005-2010 will not be given weight except to the extent that the findings draw into question the reasonableness of State uncompensated care cost estimates used for calculations of prospective DSH payments for Medicaid State plan year 2011 and thereafter.”

RESPONSE: CMS approved the SPA January 17, 2024, effective to December 18, 2023, including the citation you highlight. We can only speculate at CMS’s reasoning for the specific CFR references but wish it to remain for now as any change would require a new SPA be submitted.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is \$10,948,978 for the current fiscal year (\$3,065,714 in general revenue and \$7,883,264 in federal funds) and \$10,948,978 for the next fiscal year (\$3,065,714 in general revenue and \$7,883,264 in federal funds). The total estimated cost by fiscal year to state, county, or municipal government to implement this rule is \$3,065,714 for the current fiscal year and \$3,065,714 for the next fiscal year. The agency indicated that the state share includes \$2,495,974 which will be paid by UAMS and that these payments will occur once a year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

(1) a statement of the rule’s basis and purpose;

Redistribution of overpayment DSH funding is necessary for the state to best utilize funding that becomes available following the certified audit once recoupment has occurred.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

A change to the Medicaid state plan and relevant Medicaid provider manual is necessary for the State to be able to redistribute overpayments of DSH funding after the annual independent certified audit of DSH payments has been completed and original payments up to the acute care hospital specific DSH limits have been established. Overpayments will be recouped, placed into an acute care hospital redistribution pool, and redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit. Additionally, DSH overpayment funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

(3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

N/A

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

N/A

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

(a) the rule is achieving the statutory objectives;

(b) the benefits of the rule continue to justify its costs; and

(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).



Office of Policy and Rules

P.O. Box 1437, Slot S295, Little Rock, AR 72203-1437

P: 501.320.6383 F: 501.404.4619

June 14, 2024

Mrs. Rebecca Miller-Rice
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
#1 Capitol, 5th Floor
Little Rock, AR 72201

Dear Mrs. Rebecca Miller-Rice:

Re: Disproportionate Share Hospital (DSH) Audit

Please arrange for this rule to be reviewed by the ALC-Administrative Rules Subcommittee. If you have any questions or need additional information, please contact me at 501-320-6383 or by emailing Mac.E.Golden@dhs.arkansas.gov.

Sincerely,

Mac Golden

Mac Golden
Deputy Chief

Attachments

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT Department of Human Services
BOARD/COMMISSION Division of Medical Services
BOARD/COMMISSION DIRECTOR Elizabeth Pitman
CONTACT PERSON Mac Golden
ADDRESS P.O. Box 1437, Slot S295 Little Rock, AR 72203-1437
PHONE NO. (501) 563-7634 EMAIL Mac.E.Golden@dhs.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Elizabeth Pitman
PRESENTER EMAIL(S) Elizabeth.Pitman@dhs.arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
Disproportionate Share Hospital (DSH) Audit
2. What is the subject of the proposed rule? Redistribution of overpayment of funds to other eligible hospitals
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☒

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☐

4. Is this rule being filed for permanent promulgation? Yes ☒ No ☐

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☒

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes ☐ No ☒

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes ☐ No ☒

If yes, please list the rules being repealed.

If no, please explain.

[Governor's Exception](#)

8. Is this a new rule? Yes ☐ No ☒

Does this repeal an existing rule? Yes ☐ No ☒

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes ☒ No ☐

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129.

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes ☐ No ☒

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

This amends the Disproportionate Share Hospital (DSH) payment methodology to allow funds to be redistributed to other eligible hospitals upon completion of an annual, independent, certified audit of DSH payments in accordance with federal requirements. Redistribution of overpayment of DSH funding is necessary for the state to best utilize funding that becomes available following the certified audit once recoupment of the funds has occurred.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

<https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>

13. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: 06/26/2024

Time: 11:30 am

Place: Zoom: <https://us02web.zoom.us/j/89797645515>

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 07/14/2024

15. What is the proposed effective date for this rule? 09/01/2024

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

Unknown

19. Is the rule expected to be controversial? Yes ☐ No ☒

If yes, please explain.

NOTICE OF RULEMAKING

The Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 25-10-129, 20-76-201, and 20-77-107.

The Division of Medical Services (DMS) amends its Disproportionate Share Hospital (DSH) payment methodology to allow funds to be redistributed to other eligible hospitals upon completion of an annual, independent, certified audit of DSH payments in accordance with 42 CFR 447.299, 455.301, 455.304. Redistribution of overpayment DSH funding is necessary for the state to best utilize funding that becomes available once a certified audit and recoupment has occurred. Any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit. To establish the above redistribution methods, DMS issues a state plan amendment (SPA) and adds a new section to the Hospital Provider Manual to be effective September 1, 2024. DHS projects an annual cost of \$10,948,978.00 (federal share \$7,883,264.00; state share \$3,065,714).

The proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at [ar.gov/dhs-proposed-rules](https://www.ark.gov/dhs-proposed-rules). Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than **July 14, 2024**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

A public hearing will be held by remote access through Zoom. Public comments may be submitted at the hearing. The details for attending the Zoom hearing appear at [ar.gov/dhszoom](https://www.ark.gov/dhszoom).

If you need this material in a different format, such as large print, contact the Office of Policy and Rules at (501) 320-6428. The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed, and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. 4502201653

Elizabeth Pitman, Director
Division of Medical Services

From: [Legal Ads](#)
To: [Jack Tiner](#)
Subject: Re: Full Run AD (Rule 270)
Date: Thursday, June 13, 2024 8:52:04 AM
Attachments: [image001.png](#)
[image002.png](#)

[EXTERNAL SENDER]

Will run Sat 6/15, Sun 6/16, and Mon 6/17.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Jack Tiner" <jack.tiner@dhs.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Lakeya Gipson" <Lakeya.Gipson@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>, "Jack Tiner" <jack.tiner@dhs.arkansas.gov>
Sent: Wednesday, June 12, 2024 3:11:44 PM
Subject: RE: Full Run AD (Rule 270)

Please reply to this email using REPLY ALL.

Please run the attached Notice in the *Arkansas Democrat-Gazette* on the following three days:

- Saturday, June 15, 2024
- Sunday, June 16, 2024
- Monday, June 17, 2024

I am aware that the print version will only be provided to all counties on Sundays.

Invoice to: **AR Dept of Human Services**
OPR, ATTN: Lakeya Gipson
P.O. Box 1437, Slot S295
Little Rock, AR 72203-8068
(Lakeya.Gipson@dhs.arkansas.gov)

Thank you.

From: [Jack Tiner](#)
To: register@sos.arkansas.gov
Cc: [Mac Golden](#); [Jack Tiner](#); [JAMIE EWING](#); [Lakeya Gipson](#)
Subject: DHS/DMS-Proposed Filing-Disproportionate Share Hospital (DSH) Audit (R270)
Date: Thursday, June 13, 2024 3:42:00 PM
Attachments: [SOS-Proposed Filing Packet-Disproportionate Share Hospital Audit-R270.pdf](#)
[image001.png](#)
[image002.png](#)

Please find attached the proposed filing packet for rule titled: *Disproportionate Share Hospital (DSH) Audit*.

Please let me know if you need anything else. Thank you.



[OFFICE](#) OF POLICY AND RULES

DHS/DMS MEDICAL ASSISTANCE MANAGER

P: 501.320.6112

F: 501.404.4619

700 Main St., Slot S295

Little Rock, AR 72203

Jack.Tiner@dhs.arkansas.gov

humanservices.arkansas.gov



This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to which this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying, or distributing this transmission is **STRICTLY PROHIBITED**. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return and delete the message and attachment(s) from your system.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Human Services

BOARD/COMMISSION _____

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE NO. (501) 320-6540 **EMAIL** Jason.Callan@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue \$3,065,714
 Federal Funds \$7,883,264
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total \$ 10,948,978.00

Next Fiscal Year

General Revenue \$3,065,714
 Federal Funds \$7,883,264
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total \$ 10,948,978.00

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 3,065,714.00

Next Fiscal Year

\$ 3,065,714.00

State Share includes \$2,495,974 of which will be paid by UAMS. These payments will occur once a year.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☒ No ☐

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

FINANCIAL IMPACT STATEMENT ADDENDUM

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☐

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;

Redistribution of overpayment DSH funding is necessary for the state to best utilize funding that becomes available following the certified audit once recoupment has occurred.

- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

A change to the Medicaid state plan and relevant Medicaid provider manual is necessary for the State to be able to redistribute overpayments of DSH funding after the annual independent certified audit of DSH payments has been completed and original payments up to the acute care hospital specific DSH limits have been established. Overpayments will be recouped, placed into an acute care hospital redistribution pool, and redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit. Additionally, DSH overpayment funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

- (3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

N/A

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

N/A

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

- (a) the rule is achieving the statutory objectives;
- (b) the benefits of the rule continue to justify its costs; and
- (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control cost.

Statement of Necessity and Rule Summary Disproportionate Share Hospital (DSH) Audit

Statement of Necessity

The Division of Medical Services (DMS) amends its Disproportionate Share Hospital (DSH) payment methodology to allow funds to be redistributed to other eligible hospitals upon completion of an annual, independent, certified audit of DSH payments in accordance with federal regulations. Redistribution of overpayment DSH funding is necessary for the state to best utilize funding that becomes available once a certified audit and recoupment has occurred. Any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit.

Summary of Changes

To establish the above redistribution methods, DMS issues a state plan amendment (SPA) and adds a new section, 250.460, to the Hospital Provider Manual. The language of these two additions state:

In addition to any other audits which may occur, independent certified audits of the DSH payments shall be conducted annually in accordance with 42 CFR 455.301 and 42 CFR 455.304. Reporting of the audit shall follow the guidelines stated in 42 CFR 447.299. In accordance with 42 CFR 455.304(e), any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit, in the following manner:

- A. The amount of the DSH payment made to the acute care hospital will be recouped by the State of Arkansas to the extent necessary to reduce the DSH payment to an allowable amount.
- B. Amounts recouped from acute care hospitals with payments in excess of the audited hospital specific DSH limits will be placed into an acute care hospital redistribution pool. Redistribution will be made to remaining acute care hospitals that do not exceed their hospital specific DSH limit. The allocation will be made based on these remaining acute care hospitals' available uncompensated care. No acute care hospital shall exceed its hospital specific DSH limit after redistribution.
- C. Additionally, DSH funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

TOC required**250.460 Annual Disproportionate Share Hospital (DSH) Audit****9-1-24**

In addition to any other audits which may occur, independent certified audits of the Disproportionate Share Hospital (DSH) payments shall be conducted annually in accordance with 42 CFR 455.301 and 42 CFR 455.304. Reporting of the audit shall follow the requirements of 42 CFR 447.299. In accordance with 42 CFR 455.304(e), any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit, in the following manner:

- A. The amount of the DSH payment made to the acute care hospital will be recouped by the State of Arkansas to the extent necessary to reduce the DSH payment to an allowable amount.
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- C. Additionally, DSH funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

TOC required**250.460 Annual Disproportionate Share Hospital (DSH) Audit****9-1-24**

In addition to any other audits which may occur, independent certified audits of the Disproportionate Share Hospital (DSH) payments shall be conducted annually in accordance with 42 CFR 455.301 and 42 CFR 455.304. Reporting of the audit shall follow the requirements of 42 CFR 447.299. In accordance with 42 CFR 455.304(e), any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit, in the following manner:

- A. The amount of the DSH payment made to the acute care hospital will be recouped by the State of Arkansas to the extent necessary to reduce the DSH payment to an allowable amount.
- B. Amounts recouped from acute care hospitals with payments in excess of the audited hospital specific DSH limits will be placed into an acute care hospital redistribution pool. Redistribution will be made to remaining acute care hospitals that do not exceed their hospital specific DSH limit. The allocation will be made based on these remaining acute care hospitals' available uncompensated care. No acute care hospital shall exceed its hospital specific DSH limit after redistribution.
- C. Additionally, DSH funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
INPATIENT HOSPITAL SERVICES

Revised: 12-18-2023

3a. Annual Disproportionate Share Hospital (DSH) Audit

In addition to any other audits which may occur, independent certified audits of the DSH payments shall be conducted annually in accordance with 42 CFR 455.301 and 42 CFR 455.304. Reporting of the audit shall follow the guidelines stated in 42 CFR 447.299. In accordance with 42 CFR 455.304(e), any overpayments of DSH funds shall be redistributed to other eligible hospitals within the state, provided each acute care hospital remains below their hospital specific DSH limit in the following manner:

- (a) The amount of the DSH payment made to the acute care hospital will be recouped by the State of Arkansas to the extent necessary to reduce the DSH payment to an allowable amount.
- (b) Amounts recouped from acute care hospitals with payments in excess of the audited hospital specific DSH limits, will be placed into an acute care hospital redistribution pool. Redistribution will be made to remaining acute care hospitals that do not exceed their hospital specific DSH limit. The allocation will be made based on these remaining acute care hospitals available uncompensated care. No acute care hospital shall exceed its hospital specific DSH limit after redistribution.
- (c) Additionally, DSH funds not otherwise paid to qualifying acute hospitals shall be paid, subject to the uncompensated care cost limits and annual DSH allotment, to the Arkansas State Operated Teaching Hospital.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
INPATIENT HOSPITAL SERVICES

Revised: 12-18-2023

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