

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR**

ACTION REFERRAL

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| TO | DATE |
| <i>Wells</i> | <i>8-12-08</i> |

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| DIRECTOR'S USE ONLY | ACTION REQUESTED |
| 1. LOG NUMBER 000086 | <input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____ |
| 2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Foraker, Depp, Saxon</i> | <input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ |
| | <input type="checkbox"/> FOIA DATE DUE _____ |
| | <input checked="" type="checkbox"/> Necessary Action |

| APPROVALS <small>(Only when prepared for director's signature)</small> | APPROVE | * DISAPPROVE <small>(Note reason for disapproval and return to preparer.)</small> | COMMENT |
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| 3. | | | |
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DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

AUG 7 2008

Log. Myers

RECEIVED

AUG 11 2008

Ms. Emma Forkner
Director
State of South Carolina
Department of Health and Human Services
Post Office Box 8206
Columbia, SC 29202-8206

*10/1/08
cel. Ms. Forkner
Depts*

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Dear Ms. Forkner:

Thank you for your letter requesting clarification on the treatment of Medicaid Managed Care Organization (MCO) enrollees in the calculation of hospital specific Medicaid disproportionate share hospital (DSH) limits. Our guidance is provided below.

1. Q. Are States required to include Medicaid MCO enrollees in the calculation of the hospital specific DSH limit/payment or is it just an option?
 - A. States are required to include Medicaid MCO enrollees in the calculation of hospital specific DSH limits. Section 1923(g)(1)(A) of the Social Security Act (the Act) specifically refers to patients who are eligible for medical assistance under the State plan. By definition, this includes individuals enrolled in Medicaid MCOs.
2. Q. Regardless of whether or not the Medicaid MCO enrollees are included in the calculation of the hospital specific DSH limit/payment and a hospital records a profit on its Medicaid MCO enrollees, would CMS require the profit to be offset against the unreimbursed uninsured costs when calculating the hospital specific DSH limit/payment?
 - A. If a hospital records a profit on its Medicaid MCO enrollees, the Centers for Medicare & Medicaid Services (CMS) would require the profit to be offset against the unreimbursed uninsured costs when calculating the hospital specific DSH limit. Section 1923(g)(1)(A) of the Act requires that, "[a] payment adjustment during a fiscal year shall not be considered to be consistent ... if the payment adjustment exceeds the costs incurred during the year of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients)...". The hospital specific DSH limit is calculated as a hospital's total cost of providing services within a service year to Medicaid patients and those with no source of third party coverage, minus all Medicaid revenue and payments received from or on behalf of those with no source of third party coverage.

3. Q. If Medicaid MCO enrollees are required to be included in the calculation of the hospital specific DSH limit/payment, would the State be allowed to create two stand alone pools of unreimbursed cost (i.e. one for the uninsured and one for the Medicaid MCO enrollees) and then calculate hospital specific DSH limits/payments for each pool? DSH payments would be distributed based upon the uninsured pool first and if any of the allotment remained then it would be distributed based upon the Medicaid MCO enrollee pool.
- A. DSH payments must not exceed the hospital specific limits specified in section 1923(g) of the Act or in the aggregate, exceed the Federal DSH allotments published in section 1923(f) of the Act. Within these limits States are required to make DSH payments in accordance with one of the payment formulae outlined in section 1923(c) of the Act. These formulae provide States great flexibility in distributing DSH funds under their plans.
4. Q. Could the reimbursed costs of Medicaid denials (either full or partial) associated with Medicaid MCO enrollees be considered uninsured and thus be included in the calculation of the hospital specific DSH limit/payment?
- A. The unreimbursed costs of Medicaid denials (either full or partial) associated with Medicaid MCO enrollees should not be considered uninsured and thus should not be included in the calculation of the hospital specific DSH limit. The purpose of the DSH program is to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs by providing adjustments to offset the uncompensated costs of services provided to Medicaid patients and the uninsured. CMS defines those uncompensated costs as the costs of providing inpatient or outpatient hospital services for which an individual had no source of third party coverage, or in the case of Medicaid, the costs of those services exceed the Medicaid compensation for inpatient or outpatient hospital services. This definition excludes uncompensated care costs associated with co-insurance, co-pays, provider discounts or other contractual obligations associated with third-party coverage. Individuals enrolled in Medicaid MCOs have Medicaid coverage for the hospital services they received and there should be a revenue source from the Medicaid MCO. The DSH program does not make allowances for providers who could have received payment for services, but have forgone payment because of an unfulfilled contractual obligation.

If you have additional questions, please feel free to contact me.

Sincerely,



Herb B. Kuhn
Deputy Administrator
Acting Director, Center for Medicaid and State Operations