



September 26, 2013

Jonathan Blum
Deputy Administrator and Director for the Center of Medicare
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

Re: Disproportionate Share Hospital Uncompensated Care Payments and Cost Report Settlement for Providers with Fiscal Year Ends other than September 30.

Dear Mr. Blum,

We, the undersigned organizations, respectfully request that the Centers for Medicare & Medicaid Services (CMS) clarify an ambiguity in the fiscal year (FY) 2014 Inpatient Prospective Payment System (IPPS) final rule of great concern to our members. Specifically, our hospital members are concerned about how the disproportionate share hospital (DSH) uncompensated care (UC DSH) payments required under Section 3133 of the *Patient Protection and Affordable Care Act* (ACA) will be paid and settled for the 81 percent of DSH-eligible hospitals with cost reporting periods that do not coincide with the federal fiscal year.

In the FY 2014 IPPS final rule, CMS noted that its final UC DSH payment methodology “would not delay the full payment of FY 2014 payments to hospitals with cost reporting periods that begin after October 1, 2013” (78 *Fed. Reg.* 50647). **Accordingly, we strongly urge CMS to clarify that UC DSH payments made during a hospital’s FY 2013 cost reporting period and overlapping with federal FY 2014 will be settled on the hospital’s FY 2013 cost report.** We do not believe it is appropriate to delay settlement of such payments until the reconciliation of the hospital’s FY 2014 cost report, which, for some hospitals, will not occur until calendar year 2016. Doing so would likely necessitate large recoupments on hospitals’ FY 2013 cost reports and large repayments to providers on their FY 2014 cost reports.

Using our requested clarification, if a hospital is estimated to be eligible for the empirically justified and UC DSH payments and has a cost reporting period of July 1 to June 30, we believe the empirically justified DSH and UC DSH payments should be made and settled as follows:

- July 1, 2013 – September 30, 2013: Hospital receives DSH payments according to the pre-ACA methodology;

- October 1, 2013 – June 30, 2014: Hospital receives 25 percent of its traditional DSH payments (the “empirically justified” DSH payments) and UC DSH payments on a per-claim basis;
- July 1, 2014: At settlement of the hospital’s July 1, 2013 – June 30, 2014 cost report, CMS settles the pre-ACA and empirically justified DSH payments made during this period in the traditional manner. CMS settles the UC DSH payments made during this FY 2013 cost reporting period (from October 1, 2013 – June 30, 2014) and which overlap with the federal FY 2014 based on the hospital’s actual utilization during this period;
- July 1, 2014 – June 30, 2015: Hospital receives empirically justified and UC DSH payments on a per-claim basis;
- July 1, 2015: At settlement of the hospital’s July 1, 2014 – June 30, 2015 cost report, CMS settles both empirically justified and UC DSH payments made during this FY 2014 cost reporting period based on the hospital’s actual utilization during this period.

We believe that this methodology is consistent with the intent of the ACA and with CMS’s acknowledgement that if a hospital remains eligible for empirically justified DSH payments, “the hospital would neither owe nor be owed monies for its uncompensated care payment” even if its cost reporting period begins later than October 1, 2013 in federal FY 2014 (78 *Fed. Reg.* 50646).

Thank you for your consideration. Please feel free to contact us with any questions. We look forward to continuing our work with CMS to ensure a smooth ACA implementation process.

Sincerely,

/s/

Joanne M. Conroy, M.D.
Chief Health Care Officer
Association of American Medical Colleges

/s/

Linda E. Fishman
Senior vice President, Public Policy
Analysis & Development
American Hospital Association

cc: Marc Hartstein
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