10-010.03H4 Redistribution of DSH Overpayments: As required by Section 1923(j) of the Social Security Act related to auditing and reporting of Disproportionate Share Hospital payments, the Department will implement procedures to comply with the Disproportionate Share Hospital Payments final rule issued in the December 19, 2008, Federal Register, with effective date of January 19, 2009.

Beginning in DSH State Plan Rate Year 2011, if the results of audits conducted in accordance with the DSH final rule indicate that a hospital has exceeded the hospital specific DSH limit the amount of DSH payment in excess of uncompensated care costs will be recouped. Any funds recouped shall first be recouped from Pool 1 through 5 payments and then from Pool 6 payments and shall be redistributed to other eligible hospitals within the state, provided each hospital remains below their hospital specific DSH limit. Funds recouped from Pools 1 through 6 shall first be redistributed to each eligible hospital in the Pool in which the hospital payment was recouped. Any recouped funds that are not able to be distributed within the Pool will accumulate and be redistributed to all eligible hospitals. The Department will calculate the redistribution as follows:

1. Pool Redistribution
   a. First, for each Pool in which funds were recouped beginning with Pool 1 and proceeding in Pool numerical order, each hospital's difference between their DSH payment and DSH limit will be calculated. The difference will be divided by the sum of the difference between the DSH payment and DSH limit for all hospitals in the Pool.
   b. Second, the ratio resulting from such division will be multiplied times the total funding recouped for the Pool to determine each hospital's redistribution payment.
   c. If the sum of the original DSH payment and redistribution payment exceeds the DSH payment limit, the payment will be reduced.
   d. If payment is reduced to a hospital within a Pool, the additional funds will be redistributed prorata to eligible hospitals within the Pool. If all hospitals within the Pool have reached their DSH limit, the remaining funds will be carried forward to be redistributed to all eligible hospitals. For Pool 6, each hospital's difference between their DSH payment and DSH limit will include funds redistributed from Pools 1 through 5 above.
2. Final Redistribution
   a. First, for any funds that were not redistributed for each Pool in which funds were recouped, each hospital's (except for Pool 4 IMDs) difference between their DSH payment and DSH limit will be calculated. The difference will be divided by the sum of the difference between the DSH payment and DSH limit for all non-IMD hospitals.
   b. Second, the ratio resulting from such division will be multiplied times the total recouped funding not already distributed to determine each hospital's redistribution payment.
   c. If the sum of the original DSH payment and redistribution payment exceeds the DSH payment limit, the payment will be reduced.
   d. If payment is reduced to a hospital, the additional funds will be redistributed prorata to eligDible non-IMD hospitals within the Pool. If all non-IMD hospitals have reached their DSH limit, the federal portion of remaining funds will be returned to CMS.

10-010.03H3a(6) Uncompensated Care Pool (Pool 6): Pool 6 consists of hospitals that provide services to low-income persons covered by a county administered general assistance (GA) program; or hospitals that provide services to low-income persons covered by the state administered public behavioral health system.

10-010.03H3a(6)(a) Total funding to Pool 6 will be the remaining balance of the total (federal and state) DSH funding minus the funding for Pools 1, 2, 3, 4, and 5. The Department will calculate payments as follows:

1. DSH payments to a hospital under all other pools will be subtracted from the hospital's DSH upper payment limit before allocating payments under Pool 6.
2. The costs for uncompensated care resulting from participation in county administered general assistance (GA) program will be reported by the county; and costs for the state administered public behavioral health system will be reported by each hospital. Reported costs will be subject to audit by the Department.
3. A ratio for each hospital will be determined based on the uncompensated cost for each hospital to the total of uncompensated cost for all hospitals in Pool 6.
4. The ratio for each hospital will be multiplied times the available funding to the Pool to yield each hospital' annual payment amount.
5. The total computable payment will be commensurate with the charges for uncompensated care resulting from participation in county administered general assistance (GA) program; or the state administered public behavioral health system.
6. The annual payment amount will be dispersed in twelve monthly payments.
7. If payment to the hospital exceeds the disproportionate share payment limit, as established under 1923(f) of the Social Security Act, the payment will be reduced to the payment limit.
8. If payments to hospitals under this pool exceed the total allotment to Nebraska, the payments will be reduced prorata.

10-010.03H3b Limitations on disproportionate share payments:

(1) No payments made under this section will exceed any applicable limitations upon such payments established by Section 1923 (g)(1)(A) of the Social Security Act.

(2) Disproportionate share payments to all qualified hospitals for a year will not exceed the State disproportionate share hospital payment limit, as established under 1923 (f) of the Social Security Act.

10-010.03J Out-of-State Hospital Rates: The Department pays out-of-state hospitals for hospital inpatient services at the peer group rate for a like peer group of Nebraska hospitals. The peer groups are -

1. Metro Acute Care Hospitals: Hospitals located in a Metropolitan Statistical Area (MSAs) as designated by Medicare;
3. Rural Acute Care Hospitals: All other acute care hospitals;
4. Psychiatric Hospitals and Distinct Part Units in Acute Care Hospitals: Hospitals that are licensed as psychiatric hospitals by the licensing agency of the state in which the hospital is located and distinct parts as defined in 471 NAC 10-010.03A.
5. Rehabilitation Hospitals and Distinct Part Units in Acute Care Hospitals: Hospitals that are licensed as rehabilitation hospitals by the licensing agency of the state in which the hospital is located and distinct parts as defined in 471 NAC 10-010.03A.

Operating cost payment amounts are calculated based on the appropriate peer group base payment amount. Capital-related cost payments are made based on the peer group weighted median capital per diem rate. Effective September 1, 2003, capital costs will be calculated as 96.85% of the peer group weighted median cost per day. The cost-to-charge ratio is the peer group average.

Payments for psychiatric and rehabilitation services provided by out-of-state hospitals are made on a prospective per diem. Hospitals are paid based on the peer group per diem rate for the appropriate type of service. Operating cost payment amounts are calculated based on the appropriate peer group per diem rate. Capital-related cost payments are made based on the peer group weighted median capital per diem rate.

The Department may allow payments to out-of-state hospitals for direct or indirect medical education costs at a negotiated per discharge rate.

10-010.03J1 Exception: The Administrator of the Medicaid Division may enter into an agreement with an out-of-state hospital for a rate that exceeds the rate or fee established in 471 NAC 10-010.03J only when the Medical Director of the Department has determined that-

1. The client requires specialized services that are not available in Nebraska; and
2. No other source of the specialized services can be found to provide the services at the rate established in 471 NAC 10-010.03J.

10-010.03K Out-of-Plan Services: When enrollees in the Nebraska Health Connection are provided hospital inpatient services by facilities not under contract with the Department's prepaid health care organizations, the Department contracted prepaid health care organizations are authorized, but are not required, to pay providers of hospital inpatient services who care for individuals enrolled in the Nebraska Health Connection at rates the Department would otherwise reimburse providers under 471NAC 10-010.03ff.

OS Notification

State/Title/Plan Number:	**NE 11-016**
Type of Action:	**SPA Approval**
Required Date for State Notification:	**03/18/2012**
Fiscal Impact:	**FY 2011 $-0-** **FY 2012 $-0-**

Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment: 0
Number of Potential Newly Eligible People: 0
Eligibility Simplification: No

Provider Payment Increase: No

Delivery System Innovation: No
Number of People Losing Medicaid Eligibility: 0
Reduces Benefits: No

Detail:

Effective April 1, 2011, this amendment modifies the Disproportionate Share Hospital (DSH) payment methodology to comply with the DSH Auditing and Reporting final rule that became effective on January 19, 2009. Provisions are being added to allow for a recoupment and redistribution process for any DSH overpayments identified during the DSH audit.

Other Considerations:	**Prior to submitting this SPA, the Nebraska Division of Medicaid Long-Term Care sought consultation from federally recognized Native American Tribes with the State to discuss the impact that the proposed SPA might have, if any, on the Tribes. No comments were received.** **We do not recommend the Secretary contact the governor.**
CMS Contact:	**Tim Weidler, NIRT 816-426-6429**