



Center for Medicaid, CHIP and Survey & Certification

CMCS Informational Bulletin

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FROM: Cindy Mann, Director
Center for Medicaid, CHIP and Survey & Certification (CMCS)

**SUBJECT: Medicaid Disproportionate Share Hospital (DSH) Audit and Report
Information – DSH Redistribution State Plan Amendments (SPA)**

As we approach the end of most States' State plan rate year (SPRY), I am writing to provide you a reminder regarding the opportunity to submit a SPA enabling State redistribution of DSH payments if your independent certified DSH audit and associated reporting shows that payments have been made in excess of the hospital-specific DSH limit.

The 2008 DSH audit and reporting final rule, which implemented section 1001 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), provided a transition period to States for SPRYs 2005 through 2010. This period was designed to allow adequate time for the Centers for Medicare & Medicaid Services (CMS), States, auditors, and hospitals to work cooperatively in developing and refining DSH reporting and auditing techniques required by statute and regulation while attempting to mitigate or to eliminate the immediate and future fiscal impact realized by States and hospitals.

Beginning in Medicaid SPRY 2011, to the extent that audit findings demonstrate that DSH payments exceed the documented hospital-specific limits, these payments will be treated as overpayments to providers that, pursuant to 42 CFR Part 433, Subpart F, trigger the return of the Federal share to the Federal government. However, if the excess DSH payments are redistributed by the State to other qualifying hospitals as an integral part of the audit process, the Federal share is not required to be returned. If the State wishes to redistribute DSH payments that exceed hospital-specific limits, the Federally approved Medicaid State plan must reflect that payment policy. In order to preserve an effective date for SPRY 2011, States must submit the proposed SPA **by the last day of SPRY 2011.**

States have considerable flexibility in establishing the redistribution methodology, as long as the methods and standards are consistent with applicable Federal requirements. CMS committed to providing technical guidance, as requested, to ensure that applicable Federal requirements are met.

We look forward to continued efforts and commitment in ensuring that the DSH audits and reports comport with section 1923(j) of the Act, implementing regulations at 42 CFR 447.299 and 42 CFR 447 Subpart D, and related guidance. Should you have any questions please contact Rory Howe at 410-786-4878 or by email at rory.howe@cms.hhs.gov.