



Revise the Medicaid DSH Auditing and Reporting Rule

The Auditing and Reporting Rule

Medicaid Disproportionate Share Hospital (DSH) payments help offset the uncompensated costs of treating the uninsured and the unreimbursed costs of treating Medicaid patients – a program that pays providers substantially less than the cost of care. DSH funding also supports a wide range of uncompensated safety net costs associated with the provision of essential community services like trauma and burn care.

In 2003, as part of the *Medicare Prescription Drug Improvement and Modernization Act (MMA)*, with NAPH’s support, Congress enacted reporting and auditing requirements to bring greater transparency to the DSH program—a policy supported by safety net hospitals throughout the country. The goal of these requirements is to ensure that payments are effectively used for DSH’s intended purpose – to support hospitals serving a disproportionate share of low-income patients.

In December 2008, the Centers for Medicare & Medicaid Services (CMS) issued its final DSH auditing and reporting rule. **Unfortunately, the rule**

does more than establish auditing and reporting standards by making substantive DSH policy changes that go beyond the scope of the rule-making process and congressional intent.

Damaging DSH Policy Changes

The DSH auditing and reporting rule alters the definition of DSH-allowable costs and dramatically narrows the scope of payments that may be made in several ways. For example, the rule narrows the definition of an allowable—hospital service,¹¹ and restricts DSH-allowable costs for the uninsured to costs for services provided only to those completely without health insurance, excluding the cost of treating someone with insurance, but without insurance for the services provided.

The effect of the rule is a dramatic reduction in the amount of payments that may be made to hospitals for the care that they provide to low-income populations. For some safety net hospitals, this disruption in reimbursement would result in significant curtailing of services or closure. **By threatening the financial viability of safety net hospitals, the**

rule threatens to undermine the health care safety net upon which millions of vulnerable patients rely.

Our Ask

States are required to conduct audits and report to CMS by December 2010, though some states have been delayed. CMS will immediately begin to disallow certain DSH costs due to policy changes included in the rule. **We ask CMS to delay disallowing costs for one year** to allow time for all stakeholders – states, Congress, providers and the Administration to analyze the impact of the rule before the policy changes go into effect.

Safety net hospitals and health systems support the goal of transparency in the DSH program; however, limiting DSH support, especially given the fiscal pressures currently being experienced by states and providers alike, will negatively impact low-income patients and communities served by safety net providers. ■

For additional information on this important issue please contact Shawn Gremminger, assistant vice president for legislative affairs at 202-585-0112 or sgremminger@naph.org