



Q&A about Medicaid Disproportionate Share Hospital Funds

What Are the Affordable Care Act's DSH Provisions?

The Affordable Care Act (ACA) makes significant cuts to both Medicaid and Medicare disproportionate share hospital (DSH) payments.

The ACA explicitly sets the Medicaid DSH cuts and has no provision for adjustments to reflect the actual level of uncompensated care hospitals provide. Each year, beginning in fiscal year (FY) 2014, the secretary of the U.S. Department of Health and Human Services (HHS) must reduce aggregate state DSH allotments by the following amounts:

- FY 2014: \$500 million
- FY 2015: \$600 million
- FY 2016: \$600 million
- FY 2017: \$1.8 billion
- FY 2018: \$5 billion
- FY 2019: \$5.6 billion
- FY 2020: \$4 billion

The law was silent about what happens to DSH allotments in FY 2021 and beyond. The Congressional Budget Office (CBO) interpreted the law to mean that DSH allotments would return to pre-ACA levels. Recognizing a potential offset for other spending, Congress rebased DSH for 2021 by extending the FY 2020 reduced

baseline, using the savings to pay for an extension of the Medicare physician fee schedule fix in the spring of this year.

Update: What are the changes proposed to the DSH provisions in the ACA?

President Obama recommended a one-year delay in the Medicaid DSH cuts, postponing the decrease in funding to FY 2015. The White House says the delay would “better align Medicaid [DSH] payments with the expected levels of uncompensated care...” To pay for the delay, the administration would incorporate the FY 2014 cuts into cuts in future years.

What about Medicare DSH Cuts?

The ACA also included \$22 billion in Medicare DSH cuts from 2014 to 2019. But these cuts are made in a different way than those for Medicaid DSH, using a complicated formula that redirects some DSH funding to high-volume safety net providers and accounts for the nation's aggregate level of insurance coverage. If coverage fails to materialize at projected levels, the Medicare cuts will be lessened. While we remain concerned about some of the aspects of the Medicare DSH cuts, our larger advocacy focus is on the Medicaid cuts.

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What Does the Supreme Court Ruling Mean for Medicaid Expansion?

The Supreme Court's July 2012 ruling on the ACA effectively makes the law's Medicaid expansion voluntary for states. To date, fewer than half of states have opted to expand Medicaid, and the Kaiser Family Foundation estimates that up to 6.4 million people could remain uninsured as a result.

Will the DSH Cuts Affect my State?

While the size of the Medicaid DSH cuts is explicitly stipulated under law, HHS has broad latitude in how it distributes the cuts among states. America's Essential Hospitals has made recommendations to HHS on how to create incentives for states to target their remaining DSH funds to hospitals that have the highest share of uncompensated care.

On May 13, 2013, the Centers for Medicare & Medicaid Services (CMS) released a proposed rule implementing the Medicaid DSH cuts. In the proposed rule, CMS provides details on the DSH health reform methodology that the agency will use to determine the amount of reduction to each state's DSH allotment for fiscal years 2014 and 2015. CMS acknowledges that the data for determining state allotment reductions for these

two fiscal years will not account for states' Medicaid expansion decisions and plans to address the impact of differential coverage expansion through separate rulemaking for DSH allotment reductions for FY 2016 and later.

In general, CMS will subtract the reduction amount from each state's unreduced allotment to come up with each state's FYs 2014 and 2015 Medicaid DSH allotments. CMS proposes to do this on an annual basis before the start of each fiscal year and by using the most recent available data. CMS has not released details on the timeframe and process by which the agency will recoup the reduced allotment amounts.

What Are the Next Steps?

America's Essential Hospitals is focused on making the case that the DSH cuts must be delayed and ultimately reexamined in total. America's Essential Hospitals is actively working with Congress to devise a DSH policy that would delay the cuts for three years to collect accurate data on state levels of uncompensated care and how current DSH funds are targeted to address the needs of uninsured and Medicaid patients in our hospitals. Conversations about the DSH cuts are continuing to increase since Medicaid DSH cuts went into effect at the start of FY 2014.