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Medicare DSH: What is in the Proposed Rule and What it Means for Hospitals

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Overview

- Pre-ACA Medicare DSH Program
- ACA Medicare DSH Reduction and Revised Methodology
- CMS' Proposal
- Next Steps for NAPH Members

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Pre-ACA Medicare DSH Program

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History of Medicare DSH

- Established in 1985
- *"Poor patients are more costly to treat…hospitals with substantial low-income patient loads would likely experience higher costs for their Medicare patients than otherwise similar institutions."*
- CMS made $10.8b in Medicare DSH payments to hospitals in FY 2010

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Eligible Hospitals and Medicare DSH Payments

- Hospitals eligible for Medicare DSH based on disproportionate patient percentage (DPP) threshold or Pickle hospital status
- Eligible hospitals receive a percentage add-on to each Medicare DRG payment
- *Thus, hospitals with high levels of Medicaid and Medicare inpatients receive the most Medicare DSH payments under pre-ACA formula*

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Pre-ACA Medicare DSH Payment In Detail

- Determine DPP

$$\left(\frac{\textbf{Medicare SSI Days}}{\textbf{Total Medicare Days}}\right) + \left(\frac{\textbf{Medicaid, non-Medicare Days}}{\textbf{Total Patient Days}}\right)$$

- Based on a hospital's urban/rural status and number of beds, apply complex rules to DPP to determine hospital's DSH adjustment percentage

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Pre-ACA Medicare DSH Payments in Detail

- Medicare DSH payments are poorly targeted
- "[T]he current low-income share measure does not include care to all the poor; most notably, it omits uncompensated care."

  – MedPAC
- Top 10 percent of the hospitals providing 41 percent of all unpaid care receive only about 10 percent of Medicare DSH payments

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Medicare DSH in the ACA

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Medicare DSH in the ACA

- $22.1 billion in Medicare DSH cuts in FYs 2014-2019 (pre-Supreme Court decision)

- Effective for FY 2014, eligible hospitals will receive 25 percent of what they would have received as an add-on payment to each DRG

  CMS calls this the empirically justified payment

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Medicare DSH in the ACA

- The remaining portion will be:
  - reduced to reflect change in national uninsurance rate as compared to FY 2013
  - distributed based on hospitals' relative levels of uncompensated care costs (UCC)
- *Thus, hospitals with higher UCC would receive more Medicare DSH payments under the ACA formula*

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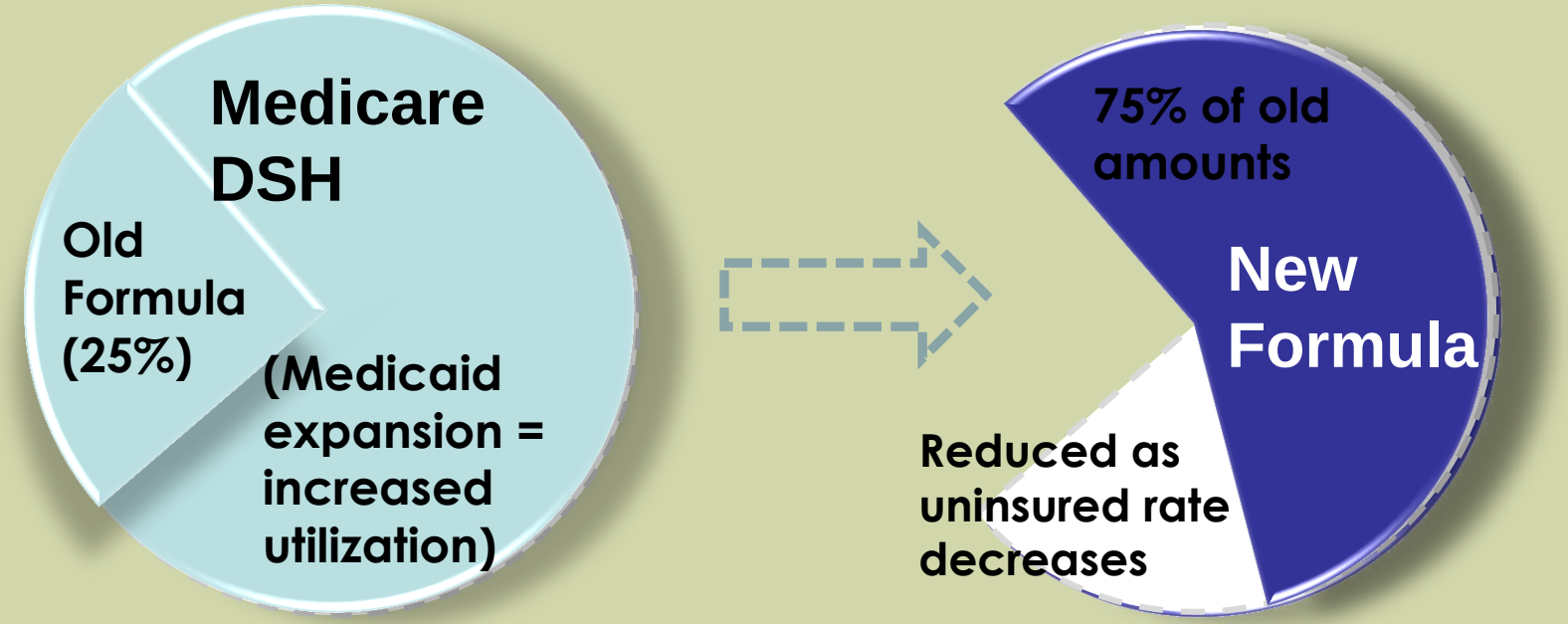
ACA Changes



Old formula benefits high Medicaid & Medicare

New formula benefits high UCC

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UCC-based Medicare DSH Payment

- Separate payment from per-discharge add-on
- Each hospital's share = ratio of hospital UCC to all hospitals' UCC
- CMS may use "alternative data …which is a better proxy for the costs …for treating the uninsured."

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CMS' Proposal

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Proposed Changes at a Glance

- Total Medicare DSH payments without regard to ACA: $12.338 billion
  - $3.084 billion will continue to be paid as add-on payments to each DRG
  - $9.254 billion as starting point for determining UCC-based Medicare DSH payments

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Eligibility for Medicare DSH payments

- For empirically justified payments: unchanged (DPP or Pickle)
- For UCC-based payments: must already be eligible for empirically justified payments
  - CMS will make initial determination prior to fiscal year
    - *Action: confirm CMS' posted data*
  - Final eligibility based on actual DSH status on the cost report

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Empirically Justified Payments

- Continue to be paid as per-discharge add-on
- Reduced to 25% of adjustment
- CMS estimates $3.084 billion for FY2014
- Subject to same cost report settlement process
- Could see adjustment increase if Medicaid utilization increases

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UCC-based Medicare DSH Payments

- Paid as a lump sum amount
- on an "interim, periodic basis"
- No administrative or judicial review

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Determining UCC-based Medicare DSH Payments

Factor 1
75% of $12.338b (what would otherwise be paid)

x

Factor 2
Change in uninsurance rate and 0.001

x

Factor 3
Hospital's share of UCC

$9.254b x 88.8%

= $8.217b

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Determining Factor 3

Factor 3

Hospital's share of UCC

- ACA definition of Factor 3:

  "the amount of **uncompensated care** for such hospital for a period selected by the Secretary (as estimated by the Secretary, based on appropriate data *(including, in the case where the Secretary determines that alternative data is available which is a better proxy for the **costs** of subsection (d) hospitals **for treating the uninsured**, the use of such alternative data.))*"

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CMS Proposes a Proxy for UCC

Factor 3

Hospital's share of UCC

- Notes that almost all definitions of UCC include **charity care + bad debt**
- However, due to shortcomings of Worksheet S-10 data, **CMS opts for Medicare SSI days and Medicaid days**
- Which are already used to determine DPP, which in turn determines hospitals' empirically justified payments

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Determining Factor 3

$$\frac{\text{(Hospital's Medicare SSI Days + Medicaid Days)}}{\text{(Medicare SSI Days + Medicaid Days for All DSH Hospitals)}}$$

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Determining UCC-based Medicare DSH Payments

$8.217 billion (Factor 1 x Factor 2) x **Factor 3**

Hospital's share of UCC

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Alternative UCC Definitions Considered

- Notes that only some definitions include Medicaid shortfall
- Does not appears to favor inclusion of Medicaid shortfall in UCC definition
- Plans to monitor effects of different UCC definitions on measures designed to expand coverage under the ACA

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Sources of UCC Data Considered

- Worksheet S-10 (Medicare cost report) could "potentially provide the most complete data", includes:
  - Charity care and bad debt
  - Medicaid/CHIP Shortfall
    - Offset by provider taxes but not IGTs/CPEs
  - State/Local Program Shortfall

- Medicaid DSH audit data on UCC not available for all hospitals

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Shortcomings of S-10 Data Discussed

- Concern regarding accuracy and consistency of S-10 data
  - *But is using S-10 charity care data to determine meaningful use incentives*
- S-10 data have not been publicly available, subject to audit, and used for payment purposes
- Will reconsider in future years

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Also…

- CMS does not want to create a disincentive for states that wish to expand their Medicaid programs; and

- Data on uncompensated care costs that would reflect efforts to expand coverage would not be available until FY 2016 and later

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Implications of Changes to Medicare DSH Payments

- ACA change to Medicare DSH breaks the link to Medicare discharges
  - Benefits hospitals with relatively fewer Medicare patients
- CMS' proxy is less redistributive than anticipated
  - Not based on actual UCC
  - Does not capture uninsured UCC
- Not clear how long CMS will use proxy

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Would an Alternative Proxy be Preferable?

- Use of inpatient days does not reflect:
  - Complete picture of hospital's low-income patient population
  - Volume of outpatient care provided
  - Relative resource intensity of care provided
- S-10 UCC data vs. proposed low-income days?
- Proposed low-income days, adjusted to overcome the shortcomings noted above?
- NAPH is undertaking significant data analysis and wants to hear from you

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Factors Affecting Relative Impact on Your Hospital

- Hospital patient mix
- Medicaid expansion*
- Inpatient vs. outpatient utilization
- Financing of Medicaid payments
- Hospital case mix
- Others?

**Lag in data means no impact reflecting expansion for several years*

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Calculate Your Estimated FY 2014 DSH Payments

- Download Medicare DSH supplemental file at: http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh.html
- Locate hospital's UCC share in "Proposed Factor 3" column
- Take UCC share and multiple by $8.217 billion
- Add result to 25% of your current total DSH payments

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Considerations for Members

- Is my FY 2014 DSH payment under CMS' proposal:
  - More or less than FY 2013 DSH payment?
  - More or less than it would be under an alternative proxy for UCC?
- How will my hospital be impacted in future years when Factor 2 decreases and aggregate amount available for UCC payments decrease?
- Am I accurately completing the S-10?

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Next Steps for Members

- Review the hospital-specific data posted by CMS
  - Verify eligibility and low-income days before June 25
- Share insight on proposal and alternatives with NAPH
- Attend annual conference session
- Comments due to CMS on June 25

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Questions?

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