

Memorandum

Date: July 12, 2010

To: CFOs, Reimbursement Directors and Managed Care Directors

From: Barney Osborne

Subject: DSH variances

Variances in the SCDHHS fourth quarter DSH payments to hospitals stimulated a number of calls to SCHA requesting assistance. There have been so many changes in Disproportionate Share distributions during 2010 that each payment to hospitals has indeed varied greatly from the previous quarter for some hospitals. Keeping in mind that hospitals are reimbursed on a percent of total, changes in your own payments may also be the result of adjustments made to other facilities and will not be easily recognizable. While understanding these changes is important, it is imperative that you understand the impact of your own placements to the program this year because of all of the complications. From some of my conversations with hospital staff, it is obvious that some hospitals failed to claim all of the accounts available to them in the second request from SCDHHS.

Unfortunately, as there were so many changes to variables all of which not the same across the board, there is no simple answer to these questions and each factor impacted every hospital differently, each quarter. To help you identify the impact(s) of these variables on your hospital-specific amounts, I have detailed a listing of the primary elements below.

DSH payments to hospitals: Three of the four 2010 quarterly payments were calculated differently:

- The 1st quarter (Oct) and 2nd quarter (Jan) payments were 2009 hospital-specific percentages applied to the new 2010 statewide Upper Payment Limit (UPL). This makes the calculations based on 2006 uninsured data, the 2006 cost-to-charge ratio making the percentage of the statewide UPL 73% (the same as 2009). These amounts were used to estimate 2010 to avoid delaying the first two quarter payments.
- The third quarter payment:
 - SCDHHS used 2010 uninsured data submissions from 2008 accounts which varied significantly to 2009 because of the new definition of “uninsured” which eliminated most denials. This caused a major redistribution between facilities from the prior year.
 - MCOs were adjusted to costs redistributing dollars from hospitals with managed care overages to other hospitals.
 - Under the new definition of “uninsured” DMH placements were drastically reduced which distributed these funds to other facilities.
 - Hospitals were paid the lower of the previous quarter amount or ½ of the remaining balance based on the new 2010 calculations to avoid overpayment.

- Based on the new 2010 data, the statewide UPL reduced to 62%.
- SCDHHS began reviews of significant uninsured variances from 2009 placements.
- Fourth Quarter payment:
 - Uninsured data was adjusted again for review findings to date (primarily out-of-state claims) causing additional shifts between hospitals.
 - SCDHHS reinstated the use of justifiable denials such (as exhausted benefits and non-covered charges) even though they had been excluded in the DSH rule. This reallocated funds back to DMH. Some hospitals failed to submit the additional data which decreased their percentage of the distribution.
 - Hospitals were paid based on the new 2010 data at 98% to allow for further review findings. Hospitals already facing significant reduction from the review were paid at 95%.
 - The UPL remained at 62%.
- There will be a fifth payment to settle all payments to actual reviewed amounts for the DSH year.
- There will be a sixth payment for DSH year 2010 to pay the 2.5% add-on from the stimulus act. This amount has to be paid separately as the matching federal funds cannot be drawn down until all routine DSH has been settled.

Hospital tax paid to the state: There is no relationship between the quarterly tax payment calculation and the quarterly DSH payment calculation. The payment timing must coincide to state DSH contributions simply for cash flow purposes (the state uses these funds to pay the state DSH match.) The taxes paid by the hospitals actually exceed the DSH match. The remaining funds are directed to routine Medicaid.

Hospital taxes are calculated based on the state fiscal year as opposed to the DSH fiscal year therefore hospital taxes for the first three quarters would remain the same and the fourth quarter would change based on the new SFY calculations. In 2010 however, an additional hospital paid taxes beginning in April 2010 which redistributed hospital-specific tax expenses. Again, fourth quarter taxes changed due to the new SFY.

There being no relationship between the DSH payment to the hospital and the hospitals tax expense, you cannot expect that hospital taxes will increase or decrease in correlation to DSH payments, meaning the net of the two can change drastically from quarter to quarter.

For those that follow these factors at a more detailed level, I have attached a copy of a matrix that I maintain for my own tracking. This worksheet was not initially intended for distribution so please bear in mind that this information is constantly changing. I will be happy to help you determine how these factors impacted your own payment amounts.

On a similar note, Clifton-Gunderson (CG) has completed the 2005 and 2006 DSH year audits required by the December 2008 DSH ruling. These results have been provided to SCDHHS but have not been released to us. We are still requesting that SCDHHS allow hospitals to review their own audit results before the final report to CMS is prepared.

CG has begun requesting audit data from hospitals for the 2007 DSH year. The request appears to be the same as the prior request for 05/06, which will hopefully allow some hospitals to use the same database structures used for the 05/06 requests. Due to the fact that CG's report is due to the state

September 30th, they have only allowed hospitals 30 days to generate this data (even though it took months for CG to resolve issues in the prior audit.) We have prepared a letter to Emma Forkner, Director, SCDHHS requesting that she allow CG an additional 30 days to complete their audit and file their report to the state and likewise instruct CG to extend hospital due dates. While the state's report for all three years is currently due to CMS by the end of December, we are asking that the state allow themselves only 60 days to prepare their own summary of the findings.

AHA and a congressional group contacted CMS requesting that the due date for DSH Year 2007 data be moved forward from December 2010 to December 2011 and the actual cash adjustments begin with DSH Year 2012 rather than 2011. AHA summarized CMS' response as follows:

While there does not appear to be any indication that CMS is willing to formally delay implementation of the rule, and it seems that the issue of including physician services as part of uncompensated care costs will not be revisited in the near term, there is some positive news:

- CMS is looking at the scope of the policy change related to uncompensated care and the issue of "under-insurance" – that is, they will recognize the unreimbursed costs associated with treating a patient who has insurance that does not fully cover the cost of their hospital stay. At this point, it is unclear how they will process this change – whether through the rulemaking process or a letter to the state Medicaid directors.
- CMS is trying to give states maximum flexibility with regard to applying the audit findings. For example, the state has the entire fiscal year to decide how to apply the DSH audit findings as it relates to redistributing DSH funds within the state. And the state only has to indicate to CMS in a plan amendment that they will be taking action.
- CMS believes that the 2011 DSH audit findings will not result in a decrease in individual DSH state allotments. They claim that any change will be within the state, in terms of how DSH dollars are distributed or redistributed among hospitals. Of course, a state government can decide to reduce overall DSH spending, for other purposes, regardless of this rule.

CMS said that they are working with the states and believe that every state Medicaid program will meet the December 31, 2010, reporting deadline for the first year audit findings. (Darlene Vanderbush, AHA, July 07, 2010)

We will keep our members informed of all of these efforts. Please feel free to contact me with any questions or concerns that you may have.

Thank you.