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## IX. HOSPITALS DEEMED DISPROPORTIONATE SHARE

### A. DEFINITIONS

State Plan – the approved Oklahoma state plan for medical assistance payments as required by Section 1902 [42 U.S.C. 1396a] of the Social Security Act.

Medical Assistance Payments – Medicaid payments.

Private and Community Hospital – A licensed facility located within the boundaries of the State of Oklahoma that provides medical and / or surgical treatment and care for the sick or the injured.

Public Hospital - A public hospital is one that is located within the boundaries of the State of Oklahoma and is owned or operated by the State or by an instrumentality or a unit of government within the state.

High Disproportionate Share Public Hospital – A public hospital that is located within the boundaries of the State of Oklahoma that meets at least two of the following criteria: (a) a Medicaid utilization rate at least one standard deviation above the mean Medicaid utilization rate in the state; (b) a low income utilization rate at least twice the federal minimum required; or (c) the hospital with the greatest number of Medicaid inpatient days of any hospital in the state in the previous year.

Teaching Hospital – A licensed acute care hospital located within the boundaries of the State of Oklahoma that has a medical school affiliation or belongs to the Council on Teaching Hospitals. A major teaching hospital has 150 or more full-time equivalent (FTE) residents enrolled in approved teaching programs.

Public - Private Major Teaching Hospital – A major teaching hospital owned by the State of Oklahoma that entered into a joint operating agreement with a private hospital system.

Institution(s) for Mental Disease (IMD) – An institution located within the boundaries of the State of Oklahoma that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, meets the federal definition established in 42 CFR 435.1009 and whose facility is licensed by the Oklahoma Department of Health as a Specialized Hospital: Psychiatric.

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Hospital Specific Cost to Charge Ratio – a ratio established by the Oklahoma Health Care Authority pursuant to the "Per Patient Discharge Prospective Payment Methodology for Hospitals" included in Attachment 4.19-A, Section VI B. of the State Plan.

Disproportionate Share Hospital Survey (DSH) – the annual survey of hospitals conducted by the Oklahoma Health Care Authority. Surveys are to be completed in full, electronically submitted when possible and signed and mailed pursuant to the instructions contained on the survey document.

**B. MINIMUM FEDERAL CRITERIA**

A hospital as defined in this section of the Oklahoma State Plan which meets the following requirements is deemed to be a disproportionate share hospital if:

**(1)** The hospital's Medicaid inpatient utilization rate is at least one standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the State.

The term "Medicaid inpatient utilization rate" means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's total number of Oklahoma inpatient days attributable to patients who (for such days) were eligible for medical assistance in a period (regardless of whether such patients receive medical assistance on a fee-for-service basis or through a managed care program), and the denominator of which is the total number of the hospital's inpatient days in that same period. In this paragraph, the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere. Inpatient days include psychiatric days and exclude swing bed and skilled nursing days. They also include days attributable to individuals eligible for Medicaid in another state. They do not include days attributable to Medicaid patients between 21 and 65 years of age in Institutions for Mental Disease (IMDs) or days which are attributable to services rendered in a separately licensed/certified entity;

Or

**(2)** The hospital's low-income utilization rate exceeds 25 percent.

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The term “low-income utilization rate” means, for a hospital, the sum of (a) and (b) below:

**(a)** the fraction (expressed as a percentage):

(i) the numerator of which is the sum (for a period) of the total revenues paid the hospital for patient services under the Oklahoma State plan under this title (regardless of whether the services were furnished on a fee-for-service basis or through a managed care program) and the amount of the cash subsidies for patient services received directly from State and local governments, and

(ii) the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the period; and

**(b)** the fraction (expressed as a percentage):

(i) the numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, less the portion of any cash subsidies for patient services received directly from State and local governments in the period reasonably attributable to inpatient hospital services, (the numerator shall not include contractual allowances and discounts other than for indigent patients not eligible for medical assistance under the State plan), and

(ii) the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period.

**C. MANDATORY FEDERAL REQUIREMENTS TO QUALIFY AS DISPROPORTIONATE SHARE HOSPITAL**

**(1)** Except as provided in paragraph (2) below, no hospital may be defined or deemed as a disproportionate share hospital unless the hospital has at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to individuals who are entitled to medical assistance for such services under such State plan.

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**(2) (a)** The preceding requirement shall not apply to a hospital which:

(i) the inpatient days are attributed predominantly to individuals under 18 years of age; or

(ii) did not offer non-emergency obstetric services to the general population prior to December 21, 1987.

**(b)** In the case of a hospital located in a rural area (as defined by section 1886 of the Social Security Act), the term "obstetrician" includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures.

**(3)** No hospital may be defined or deemed as a disproportionate share hospital unless the hospital has a Medicaid inpatient utilization rate (as defined in Section (B)(1)) of no less than 1 percent.

## D. REQUIREMENTS TO QUALIFY AS AN OKLAHOMA DISPROPORTIONATE SHARE HOSPITAL

**(1)** Hospitals as defined in Section A which meet the requirements in Section C will automatically be qualified as an Oklahoma disproportionate share hospital and, for the purpose of payment, will be treated in the same manner as all other hospitals within their group as defined below.

**(2)** IMD hospitals as defined in Section A must meet the requirements in Section B and the requirements in Section C in order to be qualified as an Oklahoma disproportionate share hospital.

## E. STATE ALLOCATION METHODOLOGY AND FORMULAS

The aggregate total amount of DSH payments to all hospitals and IMDs deemed Oklahoma Disproportionate Share Hospitals will equal the annual CMS disproportionate share hospital amount allocated to the State.

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Eligibility for disproportionate share payments will be determined annually. All information used for all allocation calculations will be derived from the Annual Disproportionate Share Hospital Survey conducted by OHCA, the OHCA MMIS system, the most currently available United States Bureau of Economic Analysis reports and the most currently available CMS market basket inflation rate for inpatient hospital charges.

The annual DSH survey must be received by OHCA each year by April 30. Only hospitals that timely return disproportionate share surveys will be considered for DSH payments. The information used to complete the survey must be extracted from the hospital's financial records and fiscal year cost report ending in the most recently completed calendar year.

| EXAMPLE: | |
|---|---|
| Cost reporting periods ending: | 1/1/04 through 12/31/04 |
| Hospital surveys due: | 4/30/05 |
| For DSH payment year: | 10/1/05 through 9/30/06 |

Any hospital providing incomplete surveys to OHCA may be deemed ineligible to receive funds allocated pursuant to this Section of the State Plan.

**(1)** Effective January 1, 2007, Oklahoma disproportionate share hospital payments shall be allocated from the following funding pools:

**(a)** Hospitals meeting the definitions of a High Disproportionate Share Public Hospital / Public - Private Major Teaching Hospital will receive an amount equal to the federal fiscal year 2006 allocation, $25,546,749, plus an inflationary increase each year equal to the amount published by the U.S. Department of Labor Bureau of Labor Statistics for the first six months of the most current calendar year (Consumer Price Index - 12 Months Percent Change for All Urban Consumers).

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**(b)** Private and Community or Public Hospitals will receive an amount equal to the state disproportionate share hospital allocation published by the Centers for Medicare & Medicaid Services in the Federal Register less the amount reserved for IMD hospitals and less the amount reserved for hospitals allocated funds in subsection (a) of this section.

**(c)** IMD hospitals will receive an amount equal to the amount allocated and published in the federal register by the Centers for Medicare & Medicaid Services.

**(2)** The funds allocated to the pool described in subsection (1)(b) above for Private and Community or Public Hospitals will be distributed in the following manner:

**(a)** Hospitals will be grouped as follows by licensed bed size based on the Oklahoma State Department of Health Medical Facilities Division health care facility directory:

- Group 1 will include hospitals with 300 or more licensed beds.
- Group 2 will include hospitals with more than 100 but less than 300 licensed beds.
- Group 3 will include hospitals with less than 100 licensed beds.

**(b)** The DSH Allocation reserved for this pool will be divided between the three groups based on each group's total Medicaid inpatient days divided by the aggregate total number of all Medicaid inpatient days provided by all three groups combined. If the total percentage calculated for hospitals in Group 1 exceeds 65% of the total to be distributed in any given year the distribution will be reduced to 65% for that Group and the balance will be distributed accordingly to the remaining two groups.

**(c)** Hospitals in each group will receive funds based on their relationship to the total amount of Indigent Care Costs provided by the group. Indigent Care Costs are reported to OHCA by each hospital using the annual DSH Survey.

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Indigent Care Costs are calculated based on the following hospital specific formula:

Indigent Care Costs =

(Medicaid Gross Charges + Bad Debt Allowance + Charity Care Gross Charges) x (Hospital Specific Cost to Charge Ratio)

Once allocations are made to each hospital they are compared to the hospital specific DSH upper payment limit and then adjusted down, if necessary, so as to not exceed the limit as calculated below.

In the event it is necessary to reduce the amount of DSH payments to remain within the DSH Upper Payment limit(s), the OHCA shall calculate a pro rata increase to all other qualifying hospitals by recycling the remaining amounts through the allocation formula.

**(3)** The funds allocated to the pool described in subsection (1)(c) above for IMDs will be distributed in the following manner:

IMDs will receive funds based on their relationship to the total amount of Indigent Care Costs provided by all IMDs. Indigent Care Costs are reported to OHCA by each hospital using the annual DSH Survey.

Indigent Care Costs are calculated based on the following hospital specific formula:

Indigent Care Costs =

(Medicaid Gross Charges + Bad Debt Allowance + Charity Care Charges) X (Hospital Specific Cost to Charge Ratio)

Once allocations are made to each IMD they are compared to the hospital specific DSH upper payment limit and then adjusted down, if necessary, so as to not exceed the limit as calculated below.

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In the event it is necessary to reduce the amount of DSH payments to remain within the DSH Upper Payment limit(s), the OHCA shall calculate a pro rata increase to all other qualifying hospitals by recycling the remaining amounts through the allocation formula.

## F. HOSPITAL SPECIFIC DSH UPPER PAYMENT LIMIT (UPL)

Pursuant to Section 1923(g) of the Social Security Act, allocations made to hospitals will be subject to hospital specific DSH limits which will be calculated as follows:

Hospital Specific DSH Limits =

(Hospital Specific Cost to Charge Ratio (CCR) x (Total Medicaid Gross Charges + Total Charity Care Charges)) - (All Medicaid Payments)

For the purposes of calculating the Hospital Specific DSH UPL:

(1) the source for total Medicaid Gross Charges and all Medicaid payments will be current and from the OHCA MMIS system.
(2) the source for Charity Care Charges will be from the DSH survey and will be adjusted for inflation based on the most current CMS Market Basket data available.
(3) Charity care charges shall not include bad debt.

Any hospital found to have been paid more than their hospital specific DSH UPL or was inappropriately paid DSH at any time or in any year subject to audit will be required to pay the funds back to the state in full. The state may reallocate any funds recovered due to overpayment to other DSH hospitals that were not paid up to their hospital specific DSH UPL. Recovered funds will be reallocated based on the most current allocation and distribution method used by the state.

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After the final payment during the federal fiscal year has been issued, no adjustment will be given on DSH payments, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital.

Hospitals and / or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle.

## G. REPORTS AND AUDITS

Each hospital will be responsible for maintaining its own supporting documents and records related to information reported to OHCA on the annual DSH survey.

Pursuant to Section 1923(j) of the Social Security Act, hospitals will be subject to annual audits. Hospitals found to be out of compliance as a result of the audits will be responsible for reimbursing the state for any DSH payments incorrectly made during the period reviewed.

Pursuant to 42 CFR 433.32, which relates to Fiscal policies and accountability, hospitals receiving DSH funds are required to:

(a) Maintain an accounting system and supporting fiscal records used by the hospital to complete the annual DSH survey;
(b) Retain records for 3 years from date of submission of a final expenditure report; and
(c) Retain records beyond the 3-year period if audit findings have not been resolved.

The State reserves the right to request any other information from hospitals receiving DSH funds as may be necessary to meet the audit and reporting requirements of federal law.

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## H. APPEALS

Any hospital required to pay back any or all portions of DSH funds allocated pursuant to this Section will have the right to an appeal pursuant to the appeal provisions included in this State Plan.