Steve Sisolak
Governor

Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF HEALTH CARE FINANCING AND POLICY

Helping people. It's who we are and what we do.

Suzanne Bierman, JD MPH
Administrator

NOTICE OF PUBLIC WORKSHOP

NOTICE IS HEREBY GIVEN that the Division of Health Care Financing and Policy will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) 422.105 and 422.115

The workshop will be conducted via videoconference beginning at 10:00 AM (PST) on December 1, 2022, at the following locations:

Division of Health Care Financing and Policy
1100 E. William Street, Suite 101
2nd Floor Conference Room
Carson City, NV 89701

Microsoft TEAMS
Click here to join the meeting

Or you can join via the following web address:
https://tinyurl.com/PW120122

Audio Only: (775) 321-6111
Conference ID: 358 759 288#

This workshop will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

AGENDA

1. Introduction of workshop process
2. Public comment on proposed amendments to Nevada Administrative Code 422.105 and 422.115
3. Public Comment

The proposed changes will revise NAC 422.105 and 422.115 of the Nevada Administrative Code and are being proposed in accordance with NRS 422.390.

The proposed regulations provide provisions for the following:

1. Brings the proposed regulations in compliance with the Nevada State Plan, Attachment 4.19-A, Page 23, Page 32a and 32 a.i. Changes are being made to the Disproportionate Share Hospital (DSH) calculations and distribution formula.
2. Affects Hospitals that participate in the Disproportionate Share Hospital (DSH) program.
3. Allows the State to modify the calculations and distribution of DSH funds when necessary.
4. Allows the Division to enter into an agreement with the Hospitals to calculate and distribute available DSH funds.

5. Outlines the percentages used to calculate and determine the distribution of DSH funds.
6. The total amount distributed to an individual hospital may not, under any circumstance, exceed the total uncompensated care costs (DSH limit) for that facility, therefore, the Division may opt to reduce the DSH allotment accordingly to prevent overpayments withing the year.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Shanna Cobb-Adams, Chief of the Supplemental Reimbursement Unit (SRU) at the following address:

Division of Health Care Financing and Policy
1100 E. William Street, Suite 101
Carson City, NV 89701
775-684-3762 (FAX)

Members of the public who require special accommodations or assistance at the workshops are required to notify Shanna Cobb-Adams in writing to the Division of Health Care Financing and Policy, at the above address, or by calling Shanna Cobb-Adams at least five (5) working days prior to the date of the public workshop.

You may contact Shanna Cobb-Adams by calling 775-684-3621 for further information on the proposed regulations or how to obtain copies of the supporting documents.

A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Health Care Financing and Policy
1100 E. William Street, Suite 101
Carson City, NV 89701

Nevada State Library and Archives
100 Stewart Street
Carson City, NV

A copy of the regulations can be found on the Division of Health Care Financing and Policy's web page:
https://dhcfp.nv.gov/Public/AdminSupport/PublicNotices/

A copy of the public workshop notice can also be found at Nevada Legislature's web page:
https://www.leg.state.nv.us/App/Notice/A/

A copy of this notice has been posted at the following locations:

1. Division of Health Care Financing and Policy, 1100 E. William Street, Suite 101, First Floor Lobby, Carson City, NV 89701
2. Nevada State Library and Archives, 100 Stewart Street, Carson City
3. Legislative Building, 401 S. Carson Street, Carson City
4. Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas
5. Washoe County District Health Department, 9th and Wells, Reno

Copies may be obtained in person, by mail, or by calling the Division of Health Care Financing and Policy (775) 684-3676 in Carson City.

Copies may also be obtained from any of the public libraries listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
210 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Water Street
Henderson, NV 89105

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

PAYMENTS TO CERTAIN HOSPITALS FOR TREATMENT OF INDIGENT PATIENTS

NAC 422.105 Intergovernmental transfers of money from certain counties to Division; discharge of duty to provide medical treatment for indigent inpatients in certain circumstances; money remitted to State Controller to be credited toward transfer to Division. (NRS 422.390)

1. In a county whose population is 100,000 or more within which a public hospital is located, the State or political subdivision responsible for the public hospital shall transfer to the Division an amount equal to:

(a) Seventy percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year, less $1,050,000; or

(b) Sixty-eight and fifty-four one hundredths percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year,

Ê whichever is less; Or,

(c) If the Division deems necessary, reduce the total computable disproportionate share supplement payments to the equivalent of the total credits applied for the non-federal share pursuant to NRS 428.285 divided by the federal medical assistance percentage for the current year.

2. In a county whose population is 100,000 or more within which a private hospital which receives a disproportionate share payment pursuant to paragraph (c) of subsection 1 of NAC 422.115 is located, the county shall transfer to the Division 1.95 percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year, but not more than $1,500,000.

3. If a county transfers to the Division the amount required pursuant to subsection 2, the county is discharged of the duty and is released from liability for providing medical treatment for indigent inpatients who are treated in the hospital in the county that receives a payment pursuant to paragraph (c) of subsection 1 of NAC 422.115.

4. The amount remitted by the board of county commissioners of a county to the State Controller pursuant to subsection 3 of NRS 428.285 will be credited toward any amount which the State or political subdivision of this State, as applicable, is required to transfer to the Division pursuant to subsection 1 or 2 of this section.

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010; A by R086-13, 12-22-2014)

422.115 NAC Designation of pools of hospitals and distribution of disproportionate share payments to each pool; requirements; limitations; calculation of total computable payments. (NRS 422.390)

1. Except as otherwise provided in ***subsections 2 and 3*** [~~subsection 2~~], the Division will initially distribute for:

(a) Pool A, which consists of all public hospitals in counties whose population is 700,000 or more, total annual disproportionate share payments in the amount of 87.97 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(b) Pool B, which consists of all private hospitals in counties whose population is 700,000 or more, total annual disproportionate share payments in the amount of 1.69 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(c) Pool C, which consists of all private hospitals in counties whose population is 100,000 or more but less than 700,000, total annual disproportionate share payments in the amount of 5.86 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(d) Pool D, which consists of all public hospitals in counties whose population is less than 100,000, total annual disproportionate share payments in the amount of 1.34 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year; and

(e) Pool E, which consists of all private hospitals in counties whose population is less than 100,000, total annual disproportionate share payments in the amount of 3.14 percent of the total computable disproportionate share supplemental payments for the fiscal year.

2. Except as otherwise provided in subsection 3, for fiscal years 2023 and 2024 the Division will initially distribute for:

(a) Pool A, which consists of all public hospitals in counties whose population is 700,000 or more, total annual disproportionate share payments in the amount of 32.46 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(b) Pool B, which consists of all private hospitals in counties whose population is 700,000 or more, total annual disproportionate share payments in the amount of 9.49 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(c) Pool C, which consists of all private hospitals in counties whose population is 100,000 or more but less than 700,000, total annual disproportionate share payments in the amount of 32.90 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(d) Pool D, which consists of all public hospitals in counties whose population is less than 100,000, total annual disproportionate share payments in the amount of 5.90 percent of the total computable disproportionate share hospital supplemental payments for the fiscal year; and

(e) Pool E, which consists of all private hospitals in counties whose population is less than 100,000, total annual disproportionate share payments in the amount of 19.25 percent of the total computable disproportionate share supplemental payments for the fiscal year.

3[~~2~~]. A hospital may not receive a disproportionate share payment unless the hospital meets all the requirements:

(a) Established by federal and state statutes and regulations; and

(b) As prescribed in the State Plan for Medicaid.

4[~~3~~]. A hospital is not entitled to receive a disproportionate share payment that is greater than the amount of its uncompensated care costs.

5[~~4~~]. ***Except as otherwise provided in subsection 6, the*** [~~The~~] Division will calculate the total computable disproportionate share supplemental payments by dividing the amount allocated to this State pursuant to 42 U.S.C. § 1396r-4(f) by the federal medical assistance percentage for the current year determined pursuant to 42 U.S.C. § 1396d(b).

6. If the Division determines there is a justification to reduce the total computable disproportionate share supplemental payments calculated pursuant to subsection 5, it may reduce the total computable disproportionate share supplemental payments to an amount that is not less than the amount calculated where the credits pursuant to subsection 4 of NAC 422.105 are equal to the sum of the intergovernmental transfers required pursuant to the calculations in subsections 1 and 2 of NAC 422.105.

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010; A by R086-13, 12-22-2014)

B. Distribution Pools: For the state fiscal years beginning July 1, 2022 and July 1, 2023, Hospitals qualified under Paragraph "A" above will be grouped into distribution pools on the following basis:

1. Distribution pools are established as follows:

   a) All public hospitals qualifying under Paragraph A above and in counties whose population is 700,000 or more, the total annual disproportionate share payments will be ~~87.97~~32.46% of the total computable DSH allotment for the State Fiscal Year.

   b) All private hospitals qualifying under paragraph A above and in counties whose population is 700,000 or more, the total annual disproportionate share payments will be ~~1.69~~9.49% of the total computable DSH allotment for the State Fiscal Year.

   c) All private hospitals qualifying under Paragraph A above and in counties whose population is 100,000 or more but less than 700,000, the total annual disproportionate share payments will be ~~5.86~~32.90% of the total computable DSH allotment for the State Fiscal Year.

   d) All public hospitals qualifying under Paragraph A above and in counties whose population is less than 100,000, the total annual disproportionate share payments will be ~~1.34~~5.90% of the total computable DSH allotment for the State Fiscal Year.

   e) All private hospitals qualifying under Paragraph A above and in counties whose population is less than 100,000, the total annual disproportionate share payments will be ~~3.14~~19.25% of the total computable DSH allotment for the State Fiscal Year.

   f) Note: There is no public hospital in counties whose population is 100,000 or more but less than 700,000.

2. The total amount distributed to an individual hospital may not, under any circumstance, exceed the total uncompensated care costs (DSH limit) for that facility; therefore, the Division may opt to reduce the DSH allotment accordingly to prevent overpayments within the state fiscal year~~.~~

3. Total annual uncompensated care costs equal the cost of providing services to Medicaid inpatients, Medicaid outpatients and uninsured patients, less the sum of:

   Regular Medicaid FFS rate payments (excluding DSH payments);
   Medicaid managed care organization payments;
   Supplemental/enhanced Medicaid payments;
   Uninsured revenues; and
   Federal Section 1011 payments for uncompensated services to eligible aliens with no source of coverage.

4. An "uninsured patient" is defined as an individual without health insurance or other

source of third-party coverage (except coverage from State or local programs

based on indigency). A system must be maintained by the hospitals to report revenues on Medicaid and uninsured patient accounts to determine uncompensated care cost consistent with Section 1923 (g) of the Social Security Act and implementing regulations at 42 CFR 447 Subpart E. Costs for Medicaid and uninsured patients will be based upon the methodology used in the HCFA 2552 report. Revenue will be deducted from cost. The total costs on the report will be subject to an independent audit. The HCFA 2552 report must be submitted within six months of the hospital's fiscal year end.

C. Calculation of Hospital DSH Payments

1. Using supplemental payment data for the DSH program year and the same period outlined on Subparagraph A.1 for all other data, the Division will calculate the DSH payments for each hospital as follows:

a. Fifty percent of the pool amount will be distributed based on the percent to total of the uncompensated care percentage of the hospitals within the pool.

i. Uncompensated Care Percentage is the uncompensated care cost of the hospital divided by the net patient revenues of the hospital, as reported on the Medicare Cost Report, which is required to be filed with the State.

(a) Net patient revenues are total patient revenues less contracted allowances and discounts. This comes from Medicare cost report, Worksheet G-3 Line 3, less any net patient revenue from non-hospital inpatient and non-hospital outpatient services.

b. The remaining 50% of the pool amount will be distributed based on the percent to total of the uncompensated care cost of the hospitals within the pool.

2. The DSH payments will be made monthly to the eligible hospitals. Payments will be based on the State Fiscal Year. DSH payment will in no instance exceed a hospital's DSH limit. If any hospital's calculated DSH payment exceeds its DSH limit, the excess will be redistributed to the remaining hospitals within the pool using the same formula above.

D. Adjusting DSH payments based on DSH Independent Certified Audit results

1. The Division will audit each hospital for each year in which the hospital received a disproportionate share payment pursuant to NRS, NAC and in accordance with the provisions of Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq.

2. After conducting an audit, if a hospital's eligibility changes or its initial DSH payment exceeded its audited DSH limit, the Division will recalculate the

SUPPLEMENTAL PAYMENT FOR NON-STATE GOVERNMENTALLY OWNED OR OPERATED HOSPITALS

The state will determine annually the payments to be made to non-state, governmentally owned or operated hospitals under this section of the plan using the following methodology:

1. Identify all non-state government owned (NSGO) or operated acute care hospitals.
2. For each facility identified in Step #1, compute total Medicaid Fee-for-Service inpatient hospital payments using latest available data projected to the current period.
3. For each facility, calculate the difference between payments identified in Step #2, and the hospital's Medicare UPL. This difference is the total maximum disbursement available under this section of the state plan.

   These calculations will be set on a prospective basis and will not be retroactively adjusted to previous fiscal years.

   A. Calculation of Supplemental Payment for NSGO Hospitals

      The state shall determine the maximum annual supplemental amount payable to hospitals prospectively for period that will begin each July 1. The state shall determine the amount of supplemental payments to each facility using the following criteria:

      a. Total supplemental payments under this section of the state plan will not exceed the difference between Medicaid payments and the Medicare UPL calculated in Step #3 above.
      b. Facilities participating in the supplemental payment program will be identified.
      c. Total supplemental payments will be apportioned to public hospitals participating in the supplemental payment program using each hospital's participation percentage. This percentage is calculated by dividing each supplemental payment hospital's Medicaid days by the total Medicaid days for all supplemental payment hospitals.
      d. Medicaid days for each supplemental payment hospital shall be identified using the most recent Medicare cost report data available at the time the calculation are prepared.
      e. Once these participation percentages are determined they will be final and not subject to recalculation, except when errors are found in the calculations. The state will not recalculate the percentages following receipt of more accurate data, such as a more current or audited Medicare cost report.

   B. Adjustment to Supplemental Payment for NSGO Hospitals to Preserve DSH

      1. The total annual supplemental payment for each hospital will be the lesser of:

         a) The total supplemental payment as calculated above in Paragraph A; or

b) If the uncompensated care limit of DSH ~~Distribution Pool A or~~ Distribution Pool D per the Medicaid State Plan Attachment 4.19-A, Page 23 for the same time period beginning July 1 as above is less than the maximum amount of DSH payment available to the Distribution Pool, the supplemental payment as calculated in this section above for the individual hospitals in the DSH Distribution Pool will be reduced by the amount necessary to allow the Distribution Pool to receive the maximum DSH payment allowable. In no event will the adjustment for each individual hospital reduce the supplemental payment as calculated in Section A to less than $0.

2. For the purpose of the reduction discussed in Paragraph B.1.b above, the Supplemental Payment for NSGO Hospitals for all hospitals in each DSH Pool will be reduced by the lesser of:

a) The amount of the smallest calculated annual Supplemental Payment for NSGO Hospitals in Paragraph A, if there are sufficient DSH funds in the pool to distribute this DSH payment amount equally to all hospitals in the pool, or

b) The remaining amount of DSH funds available in the pool which will be distributed by dividing a hospital's maximum allowed DSH payment by the total maximum allowed DSH payments for the hospitals in the distribution calculation.

No hospital will receive a DSH payment greater than the hospital's uncompensated care limit. If a hospital in the pool is projected to have negative uncompensated care costs, as determined in Section VIII of this Attachment 4.19-A, prior to the adjustment calculation described in Paragraph B.2, the hospital will be excluded from the adjustment calculation; the Supplemental Payment for NSGO Hospitals for such hospital will be that as calculated in Paragraph A. If a hospital in the pool has its annual Supplemental Payment for NSGO Hospitals reduced to $0, this hospital will be removed from further repetitions of Paragraph B.2.

The process in Paragraph B.2.a – b will be repeated until all DSH funds allocated to the DSH Distribution Pool have been distributed or the annual Supplemental Payment for NSGO Hospitals for all hospitals in the DSH Pool have been reduced to $0.

C. Payment of the Supplemental Payment for NSGO Hospitals

On a quarterly basis, hospitals will receive a supplemental payment equal to 25% of the annually determined supplemental amount. A quarterly payment will be made in each calendar quarter during the state's fiscal year.