

**PROPOSED REGULATION OF THE DIVISION OF
HEALTH CARE FINANCING AND POLICY OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R086-13

(This draft replaces the ones posted September 11, 2013)

Authority: NRS 422.387 AND NRS 422.390

Section 1. NAC 422.025 is hereby repealed.

“Distribution factor” defined. (NRS 422.390) “Distribution factor” means the value of the formula set forth in NAC 422.125 calculated for a hospital.

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010)

Sec. 2. NAC 422.125 is hereby repealed.

Formula for Division to calculate distribution factor for hospitals. (NRS 422.390)

1. The Division will use the following formula to calculate the distribution factor for a hospital:

$$DF=UCC \times \left(\frac{UCPH}{UCPP} \right)^4$$

where:

DF is the distribution factor.

UCC is the uncompensated care costs of the hospital.

UCPH is the uncompensated care percentage of the hospital.

UCPP is the uncompensated care percentage of the pool of hospitals of which the hospital is a designated member.

2. As used in this section:

(a) “Uncompensated care percentage of the hospital” means the uncompensated care costs of a hospital divided by the net patient revenues of the hospital, as reported on the report filed pursuant to subsection 1 of NAC 439B.230.

(b) “Uncompensated care percentage of the pool of hospitals” means the sum of the uncompensated care costs for all hospitals in the pool divided by the sum of the net patient revenues of all hospitals in the pool, as reported on the reports filed pursuant to subsection 1 of NAC 439B.230 for each such hospital.

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010)

Authority: NRS 422.387 and NRS 422.390

Sec. 1 NAC 422.045 is hereby amended to read as follows:

~~["Pool distribution factor"]~~ ***"Uncompensated Care Percentage" and "Percent to Total Uncompensated Cost" defined.*** (NRS 422.390) ~~["Pool distribution factor" means the sum of each distribution factor for each hospital that is a member of the pool of hospitals for which a disproportionate share payment is being calculated.]~~ ***Uncompensated Care Percentage is the uncompensated care cost of the hospital divided by the net patient revenues of the hospital, as reported on the report filed pursuant to subsection 1 of NAC 439b.230.***

(a) Net patient revenues are total patient revenues less contracted allowances and discounts.

Percent to Total Uncompensated Cost is the percent of a hospital's uncompensated cost divided by the in aggregate total uncompensated care cost of the hospitals within the pool.

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010)

Sec. 2 NAC 422.115 is hereby amended to read as follows:

Designation of pools of hospitals and distribution of disproportionate share payments to each pool. (NRS 422.390)

1. Except as otherwise provided in subsection 2, the Division will initially distribute for:

(a) Pool A, which consists of all public hospitals in counties whose population is ~~400,000~~ ***700,000*** or more, total annual disproportionate share payments ~~in the amount of \$66,650,000 plus 90 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year which exceeds \$76,000,000;~~ ***will be 87.97% of the total computable Disproportionate Share Hospital (DSH) allotment for the State Fiscal Year;***

(b) Pool B, which consists of all private hospitals in counties whose population is ~~400,000~~ ***700,000*** or more, total annual disproportionate share payments ~~in the amount of \$1,200,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year which exceeds \$76,000,000;~~ ***will be 1.69% of to total computable DSH allotment for the State Fiscal Year;***

(c) Pool C, which consists of all private hospitals in counties whose population is 100,000 or more but less than ~~400,000;~~ ***700,000***, total annual disproportionate share payments ~~in the amount of \$4,800,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year which exceeds \$76,000,000;~~ ***will be 5.86% of total computable DSH allotment for the State 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 \$900,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year which exceeds \$76,000,000; and~~ ***will be 1.34% of the total computable DSH allotment for the State 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 \$2,450,000~~

~~plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year which exceeds \$76,000,000.] will be 3.14% of the total computable DSH allotment for the State Fiscal Year.~~

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.

3. A hospital is not entitled to receive a disproportionate share in excess of their Uncompensated Cost (NRS 422.387).

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010)

Sec. 3 NAC 422.135 is hereby amended to read as follows:

~~Formula]~~ **Methodology for initial distribution of disproportionate share payments; adjustment.** (NRS 422.390)

1. ~~Except as otherwise provided in subsection 2, the~~ **The** Division will make an initial distribution of disproportionate share payments to a hospital **as follows:**

~~by dividing the distribution factor for that hospital by the pool distribution factor and multiplying the result by the total amount of money available for initial distribution to the pool of hospitals pursuant to NAC 422.115.]~~

~~2. The Division will adjust the initial distribution for each hospital in a pool of hospitals to ensure that each hospital which is eligible to receive a disproportionate share payment receives not less than \$10,000.]~~

(a) 50% of the pool amount will be distributed based on the Uncompensated Care Percentage of the hospitals within the pool.

(b) The remaining 50% of the pool amount will be distributed based on the Percent to Total Uncompensated Cost.

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010)

Sec. 4 NAC 422.155 is hereby amended to read as follows:

Recalculation after audit; final distribution; recovery and redistribution of payments. (NRS 422.390)

1. After conducting an audit pursuant to NAC 422.145, **if a hospital's initial disproportionate share hospital (DSH) payment exceeds its audited DSH limit,** the Division will recalculate ~~[, based upon the results of the audit, the:]~~ the following factors for all hospitals in the affected pool:

(a) ~~Uncompensated care costs for each hospital in this State;]~~ **Audited uncompensated care costs;**

(b) ~~Distribution factor for each hospital and each pool of hospitals; and]~~ **Audited uncompensated care percentages; and**

(c) ~~Disproportionate share payments for each hospital by dividing the recalculated distribution factor for that hospital by the pool distribution factor and multiplying the result by the total amount of money available for final distribution to the pool of hospitals]~~ **Final Disproportionate Share Hospital (DSH) payments for each hospital pursuant to [NAC 422.115.] NAC 422.135 and the Medicaid State Plan, Attachment 4.19-A, Section D 2 (a) and (b)- Page 25.**

2. A hospital may receive as a final distribution of disproportionate share payments for a fiscal year an amount equal to:

(a) The uncompensated care costs calculated pursuant to paragraph (a) of subsection 1; or

(b) The disproportionate share payment for the hospital calculated pursuant to paragraph (c) of subsection 1,

whichever is less.

3. ~~If the amount of the final distribution payment calculated pursuant to subsection 2 is less than the amount of the initial distribution of disproportionate share payments received by the hospital pursuant to NAC 422.135, the hospital shall return to the Division the difference between the amount of the initial distribution and the amount of the final distribution.~~ *For all hospitals in the affected pool(s), the Division will reconcile each hospital's initial DSH payment to its final DSH payment as calculated in Subsection 1(c). Any hospital whose DSH payment pursuant NAC 422.135 is greater than the final DSH payment will return the difference to the Division, and any hospital whose initial DSH payment is less than the final DSH, will be paid the difference. The Final DSH payment amount for an individual hospital as calculated in accordance with the methodology in paragraph C of the Attachment 4.19-A, Section VIII – Page 24 of the Medicaid State Plan will in no instance, exceed that hospital's audited DSH Limit.*

~~{ 4. Except as otherwise provided in subsection 5, the Division will, for each pool of hospitals, redistribute among the hospitals within the pool the money returned to the Division pursuant to subsection 3 by the hospitals within that pool. }~~

~~{ 5 }~~ 4. If each hospital within a pool of hospitals has received the maximum amount of disproportionate share payments allowable by federal and state statutes and regulations, the Division will use the money returned pursuant to subsection 3 to pay additional disproportionate share payments as follows:

(a) If the money was returned by a hospital that is a member of Pool A, to hospitals in Pool B;

(b) If the money was returned by a hospital that is a member of Pool B, to hospitals in Pool C;

(c) If the money was returned by a hospital that is a member of Pool C, to hospitals in Pool D;

(d) If the money was returned by a hospital that is a member of Pool D, to hospitals in Pool E; or

(e) If the money was returned by a hospital that is a member of Pool E, to hospitals in Pool ~~D,~~ A,

~~for, if each hospital in a pool of hospitals to which additional payments would have been paid pursuant to this subsection has received the maximum allowable disproportionate share payments, to such other pool of hospitals as the Division determines appropriate.~~

(Added to NAC by Div. of Health Care Fin. & Policy by R033-10, eff. 6-30-2010)

5. Providers are required to return payments in excess of their DSH limit to the Division. The payments shall be returned by check or FTE within the 90 days from receipt of written notification.