

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

LCB File No. R033-10

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-16, NRS 422.380-422.390.

A REGULATION relating to payments to certain hospitals for treatment of indigent patients; establishing methods for calculating, adjusting and redistributing disproportionate share payments; and providing other matters properly relating thereto.

Section 1. Chapter 422 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Distribution factor” means the value calculated for a hospital using the formula designated in section 13 of this regulation.*

Sec. 4. *“Division” means the Division of Health Care Financing and Policy of the Department of Health and Human Services.*

Sec. 5. *“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 hospital payment is being calculated.*

Sec. 6. *“Pool of hospitals” means the group of hospitals designated pursuant to paragraph (a), paragraph (b), paragraph (c), paragraph (d) or paragraph (e) of subsection 1 of section 12 of this regulation.*

Sec. 7. “Public hospital” means:

(a) A hospital owned by a state or local government, including, without limitation, a hospital district; or

(b) A hospital that is supported in whole or in part by tax revenue, other than tax revenue received for medical care which is provided to Medicaid patients, indigent patients or other low income patients.

Sec. 8. “Uncompensated care costs” means the total annual uncompensated care costs as defined in 42 C.F.R. § 447.299(c)(16).

Sec. 9. “Uncompensated care percentage of a 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.

Sec. 10. In a county whose population is 100,000 or more within which:

1. A public hospital is located, the state or local government or other entity 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 a 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 a fiscal year,

↪ whichever is less.

2. A private hospital which receives a disproportionate share payment pursuant to paragraph (c) of subsection 1 of section 12 of this regulation 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 a fiscal year, but not more than \$1,500,000.

Sec. 11. *A county that transfers to the Division the amount required pursuant to subsection 2 of section 10 of this regulation 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 section 12 of this regulation.*

Sec. 12. 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 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 that exceeds \$76,000,000;

(b) Pool B, which consists of all private hospitals in counties whose population is 400,000 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 that exceeds \$76,000,000;

(c) Pool C, which consists of all private hospitals in counties whose population is 100,000 or more but less than 400,000, 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 that exceeds \$76,000,000;

(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 that exceeds \$76,000,000; 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 that exceeds \$76,000,000.

2. A hospital may not receive a disproportionate share payment unless the hospital meets all the requirements established by federal law and regulations and all the requirements established by state law and regulations and as prescribed in the State Plan for Medicaid.

Sec. 13. 1. *The Division will use the following formula to calculate the distribution factor of a hospital:*

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

↳ where:

DF is the distribution factor.

UCC is the uncompensated care cost 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 member.

2. *As used in this section, the “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 hospital.*

Sec. 14. *1. Except as otherwise provided in subsection 2, the Division will make an initial distribution of disproportionate share payments to a hospital 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 section 12 of this regulation.*

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

Sec. 15. *The Division will audit each hospital for each year in which the hospital received a disproportionate share payment pursuant to this chapter and NRS 422.380 to 422.390, inclusive. The audit must be conducted in accordance with the provisions of Title XIX of the Social Security Act, 42, U.S.C. §§ 1396 et seq., and the regulations adopted pursuant to those provisions.*

Sec. 16. *1. After conducting an audit pursuant to section 15 of this regulation, the Division will recalculate, based upon the results of the audit, the:*

- (a) Uncompensated care costs for each hospital in this State; and*
- (b) The distribution factor for each hospital and each pool of hospitals, and the final distribution of disproportionate share payments that each hospital may receive 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 final distribution to the pool of hospitals pursuant to section 12 of this regulation.

2. A hospital may receive as a final distribution of disproportionate share payments 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 (b) of subsection 1,

↳ whichever is less.

3. A hospital shall return to the Division the amount of the initial distribution of disproportionate share payments received by the hospital that exceeded the final distribution which the hospital may receive pursuant to subsection 2.

4. Except as otherwise provided in subsection 5, the Division will redistribute within each pool of hospitals the money that is returned to the Division pursuant to subsection 3 by hospitals that are members of that pool.

5. If each hospital within a pool of hospitals has received the maximum amount of disproportionate share payments allowable by state and federal laws and regulations, the Division will use such money to pay additional disproportionate share payments:

(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;

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

↳ or, if each hospital in such subsequent pool of hospitals has received the maximum allowable disproportionate share payments, to such other pool of hospitals as the Division determines appropriate.