PUBLIC NOTICE

September 29, 2023

Pursuant to 42 C.F.R. Section 447.205, public notice is hereby given for the submission of a Medicaid State Plan Amendment (SPA) 23-0029 Hospital Upper Payment Limit (UPL). The Division of Medicaid, in the Office of the Governor, will submit this proposed SPA to the Centers for Medicare and Medicaid Services (CMS) effective October 1, 2023, contingent upon approval from CMS, our Transmittal #23-0029.

1. Mississippi Medicaid State Plan Amendment (SPA) 23-0029 is being submitted to allow the Division of Medicaid (DOM) to establish a hospital upper payment limit (UPL) program, effective October 1, 2023.

2. The expected annual impact is $137,579,801. The federal annual aggregate expenditures is $106,307,912 for Federal Fiscal Year (FFY24) and $106,170,332 for FFY25. The expected increase in state annual aggregate expenditures is $31,271,889 for FFY 24 and $31,409,469 for FFY25.

3. The Division of Medicaid is submitting this proposed SPA to be in compliance with 42 C.F.R. § 447.201 which requires all policy and methods used in setting payment rates for services be included in the State Plan.

4. A copy of the proposed SPA will be available in each county health department office and in the Department of Human Services office in Issaquena County for review. A hard copy can be downloaded and printed from www.medicaid.ms.gov, or requested at 601-359-3984 or by emailing at DOMPolicy@medicaid.ms.gov.

5. Written comments will be received by the Division of Medicaid, Office of the Governor, Office of Policy, Walter Sillers Building, Suite 1000, 550 High Street, Jackson, Mississippi 39201, or DOMPolicy@medicaid.ms.gov for thirty (30) days from the date of publication of this notice. Comments will be available for public review at the above address and on the Division of Medicaid's website at www.medicaid.ms.gov.

6. A public hearing on this SPA will not be held.

Chapter 6: Inpatient Hospital Upper Payment Limit (UPL) Payment

Beginning with state fiscal year (SFY) 2024, In-state Mississippi public and private hospitals will be paid a supplemental payment up to the Inpatient (IP) UPL gap. The payment will be made monthly during the fiscal year. No payment under this section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity. To be ~~E~~eligible to participate in this program, hospital providers must be enrolled as a Mississippi Medicaid provider, be licensed in Mississippi as a hospital provider as of July 1 for each year and~~.~~ must be physically located in Mississippi. In addition, hospital providers must also be an eligible hospital provider enrolled with the Mississippi Division of Medicaid on the first day of each month. When a CHOW occurs during a program year, and only for purposes of meeting this eligibility requirement, the new owner is deemed to hold the enrollment and licensing status of its immediate predecessor owner as of July 1 of that program year.

6-1 Calculations

A. The Division of Medicaid shall calculate each hospital's UPL gap for the current SFY as follows: The total estimated Medicaid payments for each hospital shall be subtracted from the hospital's IP UPL calculated in accordance with the methodology set forth below then summed to calculate the IP UPL gap. The IP UPL gap is further reduced by the estimated FFS GME payments for the coming SFY for each hospital to calculate the total amount of funding available. Example of calculation:~~–~~ IP UPL - Medicaid Payments - Estimated FFS GME Payments = Hospital Specific IP UPL GAP

B. The IP UPL will be determined based on the hospital's derived Medicare inpatient cost per diem using Medicare cost reporting principles. All Medicare cost report worksheet, column, or line references are based upon the Medicare Cost Report (MCR) CMS 2552-10 and should be adjusted for any CMS approved successor MCR. The amount that Medicare would pay shall be calculated as follows:

1. Using Medicare cost report data within the previous two years of the IP UPL demonstration dates, in accordance with IP UPL guidelines set by CMS, Total Medicare Costs shall be derived by adding the reported Inpatient Hospital Cost located on the following cost report variable locations:

   a. Worksheet D-1, Hospital/IPF/IRF Components, Column 1, Line 49

   b. Organ Acquisitions Cost from all applicable Worksheets D-4, Column 1, Line 69

   c. GME Aggregated Approved Amount from Worksheet E-4, Column 1, Line 49

2. Total Medicare Patient Days shall be derived from Worksheet S-3, Part I, Column 6, Lines 14, 16, and 17 of the same cost report as the Total Medicare Costs.

3. A calculated Medicare Cost Per Diem shall be calculated by dividing the Total Medicare Costs by the hospital's Total Medicare Patient Days.

4. The calculated Medicare Cost Per Diem shall be multiplied by the total Medicaid Patient Days from a twelve (12) month data set from the prior two (2) years of the IP UPL demonstration dates in accordance with the IP UPL guidelines set by CMS to derive the hospital's IP UPL. The twelve months of data chosen to be used for the Per Diem calculation will be in accordance with IP UPL guidelines and at DOM's sole discretion.

   a. The data source for the Medicaid Patient Days and Total Medicaid Payments shall be from the state's MMIS claims data.

5. The calculated IP UPL shall be inflated from the midpoint of the hospital's cost report period to the midpoint of the IP UPL demonstration period using the CMS PPS hospital market basket index.

C. The available gap under the IP UPL for each eligible hospital will be aggregated by the three UPL ownership groups (Private, Non-State Government, State Government) All hospitals will then be split into two hospital designations for the payment allocation: Small Rural or Other Hospitals

1. Small Rural hospitals will be identified as:

   a. Hospitals having 50 beds or less in a HRSA/HPSA designated area; or

   b. Hospitals having 50 beds or less in a zip code designated as rural by the Federal Office of Rural Health Policy.

2. Other hospital will be identified as any hospital not meeting the Small Rural Hospital definition in 1. above.

3. The Small Rural/Other Hospital percent splits will be evaluated on the basis of historic utilization at the beginning of each SFY. At the sole discretion of the division, the utilization of the Small Rural hospitals may be increased by up to a factor of 2 to determine the percentage splits. The percentage splits will be published on the Mississippi Division of Medicaid website annually.

   a. https://medicaid.ms.gov/providers/provider-resources/ The percentages allocated to Small Rural and Other Hospitals will not change by more than 10 percentage points of the total UPL payment calculation from one payment year to the next.

4. The available UPL payment amount per the classes established above is distributed to each hospital based on the hospital's percent of historical total patient days from the hospitals' cost report to the historical total patient days for all hospitals within the given class.

5. If payments in this section would result in payments to any category of hospitals in excess of the IP UPL calculation required by 42 C.F.R 447.272, payments for each eligible hospital receiving payments under this section will be reduced proportionately to ensure compliance with the IP UPL.

D. If a hospital which was eligible to participate in this payment program on July 1 of the fiscal year of the payment becomes ineligible to participate in this program for any reason during that fiscal year, the payment will be prorated based on the time the hospital was eligible to participate in the program during that state fiscal year. However, this proration shall not apply if the provider is no longer enrolled as a Medicaid provider on the first day of any applicable payment period.

E. All payments made to providers pursuant to this UPL program will be included in calculating OBRA limits for purposes of DSH.

F. Providers who participate in this payment program are prohibited from entering into or participating in any "hold harmless" agreement or arrangement, as prescribed in 42 CFR 433.68 (b) (3) and (f). Breach of this provision may subject a provider to recoupment of all funds received as well as other legal claims and penalties.

G~~9~~. In the first quarter of the SFY, the Division of Medicaid shall make estimated payments based on the prior SFY's UPL gap. By the end of the first quarter of the SFY, the division shall calculate each hospital's UPL gap for the current SFY and make payments for the remaining months of the payment year not to exceed the IP UPL calculation required by 42 C.F.R 447.272 for any category of hospital.

State of Mississippi
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES-OTHER TYPES OF CARE

Outpatient Hospital Upper Payment Limit (UPL) Payment

A. Beginning with SFY 2024, eligible In-state Mississippi public and private hospitals will be paid a supplemental payment up to the Outpatient (OP) UPL gap. The payment will be made monthly during the fiscal year. No payment under this section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity. To be eligible to participate in this program, hospital providers must be enrolled as a Mississippi Medicaid provider, licensed in Mississippi as a hospital provider as of July 1 for each year, and must be physically located in Mississippi. In addition, hospital providers must also be an eligible hospital provider enrolled with the Mississippi Division of Medicaid on the first day of each month. When a CHOW occurs during a program year, and only for purposes of meeting this eligibility requirement, the new owner is deemed to hold the enrollment and licensing status of its immediate predecessor owner as of July 1 of that program year.

B. The available gap under the OP UPL for each eligible hospital will be aggregated by the three UPL ownership groups (Private, Non-State Government, State Government) to create the eligible supplemental payment amount.

1. In the first quarter of the SFY, the Division of Medicaid shall calculate each hospital's UPL gap for the current SFY for each hospital. The total estimated Medicaid payments for each hospital shall be subtracted from the hospital's OP UPL calculated in accordance with the methodology set forth below then summed to calculate the OP UPL gap. Example of calculation:– OP UPL - Medicaid Payments = Hospital Specific OP UPL GAP

a. The OP UPL will be determined based on the hospital's derived Medicare outpatient cost using Medicare cost reporting principles. All Medicare cost report worksheet, column, or line references are based upon the Medicare Cost Report (MCR) CMS 2552-10 and should be adjusted for any CMS approved successor MCR. The amount that Medicare would pay shall be calculated as follows:

1) Using Medicare cost report data within the previous two years of the O~~I~~P UPL demonstration dates, in accordance with OP UPL guidelines set by CMS, Medicare CCRs will be derived from the following cost report variable locations:

i) Total Medicare Costs shall be derived from Worksheet D, Part V, Hospital/IPF/IRF Components, Columns 5, 6, & 7, Line 202

ii) Total Medicare Charges shall be derived from Worksheet D, Part V, Hospital/IPF/IRF Components, Columns 2, 3, & 4, Line 202

2) A calculated Medicare Cost to Charge Ratio (CCR) shall be calculated by dividing the Total Medicare Costs by the hospital's Total Medicare Charges.

3) The calculated Medicare CCR shall be multiplied by the total Medicaid Charges from a twelve (12) month data set from the prior two (2) years of the OP UPL demonstration dates in accordance with the OP UPL guidelines set by CMS to derive the hospital's OP UPL. The twelve months of data chosen to be used for the calculation will be in accordance with OP UPL guidelines and at DOM's sole discretion.

i) The data source for the Medicaid Patient Charges and Total Medicaid Payments shall be from the state's MMIS claims data.

4) The calculated OP UPL shall be inflated from the midpoint of the hospital's cost report period to the midpoint of the OP UPL demonstration period using the CMS PPS hospital market basket index.

C. The available gap under the OP UPL for each eligible hospital will be aggregated by the three UPL ownership groups (Private, Non-State Government, State Government) and then further split into two hospital designations for the payment allocation: Small Rural or Other Hospitals

a. Small Rural hospitals will be identified as:

1) Hospitals having 50 beds or less in a HRSA/HPSA designated area;

2) Hospitals having 50 beds or less in a zip code designated as rural by the Federal Office of Rural Health Policy; or

3) Hospitals with a Rural Emergency Hospital license issued by the MS Department of Health.

b. Other Hospitals will be identified as any hospital not meeting the Small Rural Hospital definition in a. above.

c. The Small Rural/Other Hospital percent splits will be evaluated on the basis of historic utilization at the beginning of each SFY. At the sole discretion of the division, the

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES-OTHER TYPES OF CARE

utilization of the Small Rural hospitals may be increased by up to a factor of 2 to determine the percentage splits. The percentage splits will be published on the Mississippi Division of Medicaid website annually.

1) https://medicaid.ms.gov/providers/provider-resources/ The percentage allocated to Small Rural and Other Hospitals will not change by more than 10 percentage points of the total UPL payment calculation from one payment year to the next.

D. The available UPL payment amount per the classes established above is distributed to each hospital based on the hospital's percent of historical total Medicaid outpatient payments to the historical total Medicaid outpatient payments for all hospitals within the given class.

E. If payments in this section would result in payments to any category of hospitals in excess of the OP UPL calculation required by 42 C.F.R 447.321, payments for each eligible hospital receiving payments under this section will be reduced proportionately to ensure compliance with the OP UPL.

F. If a hospital which was eligible to participate in this payment program on July 1 of the fiscal year of the payment becomes ineligible to participate in this program during the fiscal year for any reason, the payment will be prorated based on the time the hospital was eligible to participate in the program during the state fiscal year. However, this proration shall not apply if the provider is no longer enrolled as a Medicaid provider on the first day of any applicable payment period.

G. All payments made to providers pursuant to this UPL program will be included in calculating OBRA limits for purposes of DSH.

H. Providers who participate in this payment program are prohibited from entering into or participating in any "hold harmless" agreement or arrangement, as prescribed in 42 CFR 433.68 (b) (3) and (f). Breach of this provision may subject a provider to recoupment of all funds received as well as other legal claims and penalties.

I. In the first quarter of the SFY, the Division of Medicaid shall make estimated payments based on the prior SFY's UPL gap. By the end of the first quarter of the SFY, the division shall calculate each hospital's UPL gap for the current SFY and make payments for the remaining months of the payment year not to exceed the OP UPL calculation required by 42 C.F.R 447.321 for any category of hospital.

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D. If a hospital which was eligible to participate in this payment program on July 1 of the fiscal year of the payment becomes ineligible to participate in this program for any reason during that fiscal year, the payment will be prorated based on the time the hospital was eligible to participate in the program during that state fiscal year. However, this proration shall not apply if the provider is no longer enrolled as a Medicaid provider on the first day of any applicable payment period.

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