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Health Headlines

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CMS Clarifies "Uninsured" Definition for Medicaid DSH Payments

The hospital-specific limitation on Medicaid DSH payments, SSA § 1923(g)(1), limits DSH payments to the uncompensated costs of providing services to Medicaid-eligible individuals and individuals who "have no health insurance (or other source of third party coverage) for the services furnished during the year." In a proposed rule issued on January 13, 2012, CMS revised its interpretation of the quoted phrase to apply on a service-specific basis. Thus, the cost of services provided to individuals who are otherwise insured but who have exhausted their benefits, or whose insurance does not cover the particular service(s) at issue, will henceforth be included in the calculation of uncompensated care furnished by the hospital.

The new rule revises the 2008 DSH final rule (published in the *Federal Register* on December 19, 2008), which defined "uninsured" on an individual-specific basis, rather than a service-specific basis. CMS states that the new proposed rule is "designed to mitigate some of the unintended consequences" of that earlier definition, which "appeared to exclude from uncompensated care for DSH purposes the costs of many services that were provided to individuals with creditable coverage but were outside the scope of such coverage."

The new definition, to be codified at 42 C.F.R. § 447.295, will be effective for purposes of calculating the hospital-specific DSH limit effective for 2011. The proposed rule, which is scheduled for publication in the *Federal Register* on January 18, 2012, is available by clicking here. Comments are due by February 17, 2012.

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