

8b. Disproportionate Share Hospital Provisions (Applicable to Medicaid State Plan year 2019 and each year thereafter)**A. Disproportionate Share Hospital Distribution General Provisions. A DSH distribution shall be divided into three (3) pools for distribution as follows:**

- 1) An acute care pool, composed of critical access hospitals, comprehensive physical rehabilitation hospitals, long-term acute hospitals, and acute care hospitals that do not qualify as a university hospital, shall receive an initial and a final allocation determined by subtracting from the state's total DSH allotment:
 - a. The allocation required in item A(2) of this Section for the psychiatric pool.
 - b. The initial or final, as applicable, DSH payments to be made to hospitals in the university pool in item A(3) of this Section.
- 2) A psychiatric pool, composed of private psychiatric hospitals and state mental hospitals, shall receive the percentage allowable by federal law pursuant to 42 U.S.C. sec. 1396r-4(h), up to nineteen and eight-hundredths percent (19.08%) of the total disproportionate share funds, with the allocation between each respective group of hospitals established by the biennial budget; except, however, that the allocation to state mental hospitals shall not exceed ninety-two and three-tenths percent (92.3%) of the total allotment to the psychiatric pool. If there are remaining funds within the psychiatric pool after all private psychiatric hospitals reach their hospital-specific DSH limit, state mental hospitals may exceed the ninety-two and three-tenths percent (92.3%) limit but may not exceed their hospital-specific DSH limit. Hospital-specific DSH limit means the limit as defined in item D(1)(j) of this Section.
- 3) A university hospital pool, composed of university hospitals, shall receive thirty-seven percent (37%) of the state's DSH allotment; except, however, that initial and final DSH payments to university hospitals shall be determined according to item D of this Section and not exceed the pool's overall allotment.
- 4) If there are any remaining disproportionate share funds from the psychiatric pool, fifty-four percent (54%) of those funds shall be distributed to the acute care pool and forty-six percent (46%) shall be distributed to the university pool. If the university hospitals are unable to absorb additional DSH payment dollars, remaining funds shall be distributed to the acute care pool.

B. Disproportionate Share Hospital Payment Eligibility.

- 1) An individual hospital shall receive distributions if the hospital meets the requirements of the disproportionate share program pursuant to 42 U.S.C. sec. 1396r-4(d).

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C. Disproportionate Share Hospital Initial Payment Survey Collection Provisions.

- 1) An individual hospital shall not receive an initial DSH payment unless the hospital submits a Medicaid DSH survey by the deadline established in item D(5)(a) of this Section, unless the deadline has been extended by the commissioner of the department. Failure to submit a DSH survey in a timely manner or other required information for receipt of an initial DSH payment shall result in an individual hospital's final DSH payment, as described in item D(2)(c) of this Section, being reduced by twenty percent (20%).

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- 2) A hospital newly enrolled in the Medicaid program, which does not have at least six (6) months of cost report information necessary to calculate an initial DSH payment, may submit a limited DSH survey for the purpose of determining if the hospital is eligible to receive an initial DSH payment.

D. Disproportionate Share Hospital Payment Provisions. DSH distributions shall be made as follows:

- 1) For state fiscal year 2018-2019, the department shall use the examined state fiscal year 2014-2015 DSH survey to calculate an initial DSH payment. Providers who did not receive a DSH payment for state fiscal 2014-2015 shall be eligible to submit data for the purpose of the 2019 payment, subject to limited review. For state fiscal year 2019-2020, and each year thereafter, the department shall use the Medicaid DSH survey covering the hospital's fiscal year ending in the calendar year preceding July 1 of the applicable state fiscal year to calculate an initial DSH payment. Using the surveys submitted in accordance with item D(5)(a) of this Section, payments shall be made as follows:
 - a. Each university hospital in the university pool shall receive an initial DSH payment equal to one hundred percent (100%) of the hospital's total uncompensated care costs if the total initial DSH payments to all hospitals in the university pool do not exceed the maximum allotment to the university pool as set forth in item D(3)(a) of this Section. If the total uncompensated care costs for the pool exceed the pool's maximum allotment, the initial uncompensated care factor for university hospitals shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs of all hospitals in the university pool, and each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to the university hospital pool.

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- b. For each private psychiatric and state mental hospital in the psychiatric pool, the department shall calculate an initial uncompensated care factor. The initial uncompensated care factor for a private psychiatric or state mental hospital shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all private psychiatric or state mental hospitals in the psychiatric pool, as appropriate. Each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to private psychiatric or state mental hospitals in the psychiatric pool, as appropriate. No individual hospital's initial DSH payment shall exceed the hospital's hospital-specific DSH limit as defined in item D(1)(j) of this Section.
- c. For each hospital in the acute care pool, the department shall make an initial determination of whether the acute care hospital qualifies as an essential hospital and calculate an initial uncompensated care factor for each hospital. An essential hospital is defined as an acute care hospital that qualifies as a MIUR hospital, defined in item (1) of this subparagraph, a LIUR hospital, defined in item (2) of this subparagraph, or critical access hospital. The initial uncompensated care factor for each hospital in the acute care pool shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all hospitals in the acute care pool except that the initial uncompensated care factor for an essential hospital shall be calculated using two hundred percent (200%) of the hospital's total uncompensated care costs. Each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated

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to the acute care pool. No individual hospital's initial DSH payment shall exceed the hospital's hospital-specific DSH limit as defined in item D(1)(j) of this Section.

- (1) MIUR hospital is defined as an acute care hospital whose MIUR equals or exceeds one (1) standard deviation above the mean MIUR rounded to the nearest hundredth for all acute care hospitals, critical access hospitals, private psychiatric hospitals, and university hospitals combined, as determined from the hospital's DSH surveys. For purposes of MIUR hospital determinations, MIUR is defined separately from the federal definition of MIUR and is expressed as a percentage rounded to the nearest hundredth for which the numerator shall be the number of in-state and out-of-state inpatient Medicaid days where Medicaid is the primary payor, covered under fee-for-service and managed care, and for which the denominator shall be the total number of inpatient days for the hospital as reported on the hospital's Medicaid DSH survey;
- (2) LIUR hospital is defined as an acute care hospital whose low-income utilization rate exceeds one hundred twenty percent (120%) of the state average low-income utilization rate rounded to the nearest hundredth for all acute care hospitals, critical access hospitals, private psychiatric hospitals, and university hospitals combined, as reported on the hospitals' Medicaid DSH surveys;