

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, Texas 75202



DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI

August 19, 2014

Ms. Ruth Kennedy, Director
Bureau of Health Services Financing
Department of Health and Hospitals
Post Office Box 91030
Baton Rouge, Louisiana 70821-9030

RE: Louisiana 14-025

Dear Ms. Kennedy:

We have reviewed the proposed State plan amendment (SPA) to Attachment 4.19-A of your Medicaid State plan submitted under transmittal number (TN) 14-025. This amendment proposes to revise the reimbursement methodology for disproportionate share hospital (DSH) payments for private hospitals, otherwise known as the Louisiana Low-Income Academic Hospitals. The effect of this amendment is that the following six hospitals will qualify for DSH Payments: Medical Center of Louisiana at New Orleans, University Hospital and Clinics, Lake Charles Memorial Hospital, Our Lady of the Angels Hospital located in Bogalusa, University Health Shreveport, and University Health Conway.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a) and 1923 of the Social Security Act (the Act) and the regulations at 42 CFR 447 Subpart C. Before we can continue processing this amendment, we need additional or clarifying information.

The regulation at 42 CFR 447.252(b) requires that the State plan include a comprehensive description of the methods and standards used to set payment rates. Section 6002 of the State Medicaid Manual explains further that the State plan must be comprehensive enough to determine the required level of Federal Financial Participation (FFP) and to allow interested parties to understand the rate setting process and the items and services that are paid through these rates. Further, since the plan is the basis for FFP, it is important that the plan's language be clear and unambiguous. Therefore, we have the following questions/concerns regarding TN 14-025:

SIGNED AGREEMENTS

1. Please forward copies of the signed (and revised as necessary) Cooperative Endeavor Agreements (CEAs) entered into between Louisiana State University (LSU) and the six facilities that will qualify for DSH under this proposed SPA. In addition, please provide copies of all signed existing graduate medical education affiliation agreements with LSU Health Sciences Center between the private entities.

Additionally, whether the State is a party to the financial arrangement or not, the State is ultimately responsible to ensure that the funding is appropriate. The State would be responsible for refunding any FFP if CMS finds the funding source inappropriate.

PUBLIC COMMENT

2. Did the State receive any feedback or complaints from providers, other stakeholders, or the public in general regarding this proposed amendment? If so, what were the concerns and how were they addressed and resolved?

OTHER AGREEMENTS

3. On July 21, 2014, the State sent us a draft CEA for the Children's Medical Center, a lease amendment, and a document labeled 'Minimum Financial Performance', which was an addendum to the Children's Medical Center lease. This document provides that if the private facility does not meet a certain level of financial performance, the private facility has options that include having rent payments forgiven or applying prepaid rent that are equal to the "funding shortfall".

Please provide the state's projected Minimum Financial Performance analysis for the first year in which New Facility Rent payments will be made by the Children's Medical Center, to include all projected revenues, sources of funding, and costs, and the minimum financial performance that would be considered acceptable.

If the calculation of the minimum financial performance is based solely on expected or anticipated Medicaid revenues for each hospital, it must be broadened to include all patient revenues. The State's proposed methodology appears to be overly dependent on Medicaid revenues, so that the amount of rent the facility is required to pay could be dependent on Medicaid revenues. Please note that the methodology for calculating minimum financial performance must be broadened for all participating facilities to include all revenues, not just Medicaid revenues. Additionally, please provide the following:

- a. Who establishes the levels of financial performance?
- b. Does the minimum financial performance document apply only to Children's Medical Center or will the other five hospitals be required to sign this document?
- c. Who monitors the levels of financial performance?

- d. Will any quarterly or annual reports be submitted to support the level of financial performance?
- e. Did the Board establish any financial goals? If so, then please submit them for our review.
- f. What are the expected or anticipated revenues?
- g. Are the expected or anticipated revenues determined on a State fiscal year or Federal fiscal year?
- h. Was a maximum amount established for the funding shortfall?
- i. Will all private facilities that qualify for DSH payments under amendment 14-025 execute Minimum Financial Performance arrangements that would allow relief to the facility if certain performance targets are not met?

In accordance with our guidelines to State Medicaid Directors dated January 2, 2001, if we have not received the State's response to our request for additional information within 90 days from the date of this letter, we will initiate disapproval action on the amendment.

We are requesting this additional/clarifying information under provisions of section 1915(f) of the Social Security Act (added by PL 97-35). This has the effect of stopping the 90-day clock for CMS to take action on the material. A new 90-day clock will not begin until we receive your response to this request.

Please submit your response to the following address:

Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health Operations
Dallas Regional Office
Attention: Bill Brooks
1301 Young Street, Suite 833
Dallas, Texas 75202

If you have any questions, please contact Tamara Sampson, of my staff, at (214) 767-6431 or by e-mail at Tamara.Sampson@cms.hhs.gov

Sincerely,

Bill Brooks
Associate Regional Administrator
Division of Medicaid and Children's Health Operations