

petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 6, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

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BILLING CODE 4160-01-F

Health Care Financing Administration

[MB-089-N]

RIN 0938-AG61

Medicaid Program; Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1995

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the preliminary Federal fiscal year (FFY) 1995 national target and individual State allotments for Medicaid payment adjustments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs. We are publishing this notice in accordance with the provisions of section 1923(f)(1)(C) of the Social Security Act (the Act) and implementing regulations at 42 CFR 447.297 through 447.299. The preliminary FFY 1995 State DSH allotments published in this notice will be superseded by final FFY 1995 DSH allotments to be published in the **Federal Register** by April 1, 1995.

EFFECTIVE DATE: The preliminary DSH payment adjustment expenditure limits included in this notice apply to Medicaid DSH payment adjustments that are applicable to FFY 1995.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 966-2019.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1923(f) of the Social Security Act (the Act) and implementing Medicaid regulations at 42 CFR 447.297 through 447.299 require us to estimate and publish in the **Federal Register** the

national target and each State's allotment for disproportionate hospital share (DSH) payments for each Federal fiscal year (FFY). DSH payments are payment adjustments made to Medicaid-participating hospitals that serve a large number of Medicaid recipients and other low-income individuals with special needs. Preliminary amounts must be published by October 1 of each FFY and final amounts by April 1 of each FFY.

The implementing regulations provide that the national aggregate DSH limit for a FFY is a target rather than an absolute cap when determining the amount that can be allocated for DSH payments. The national DSH target is 12 percent of the total amount of medical assistance expenditures (excluding total administrative costs) that are projected to be made under approved Medicaid State plans during the FFY. (**Note:** Whenever the phrases "total medical assistance expenditures" or "total administrative costs" are used in this notice, they mean both the State and Federal share of expenditures or costs.)

In addition to the national DSH target, there is a specific State DSH limit for each State for each FFY. The State DSH limit is a specified amount of DSH payment adjustments applicable to a FFY above which FFP will not be available. This is called the "State DSH allotment".

Each State's DSH allotment for FFY 1995 is calculated by first determining whether the State is a "high-DSH State," or a "low-DSH State." This is determined by using the State's "base allotment." A State's base allotment is the greater of: (1) The total amount of the State's actual and projected DSH payment adjustments made under the State's approved State plan applicable to FFY 1992, as adjusted by HCFA; or (2) \$1,000,000.

A State whose base allotment exceeds 12 percent of the State's total medical assistance expenditures (excluding administrative costs) projected to be made in FFY 1995 is referred to as a "high-DSH State." The FFY 1995 State DSH allotment for a high-DSH State is limited to the State's base allotment.

A State whose base allotment is equal to or less than 12 percent of the State's total medical assistance expenditures (excluding administrative costs) projected to be made in FFY 1995 is referred to as a "low-DSH State." The FFY 1995 State DSH allotment for a low-DSH State is equal to the State's DSH allotment for FFY 1994 increased by growth amounts and supplemental amounts, if any. However, the FFY 1995 DSH allotment for a low-DSH State cannot exceed 12 percent of the State's

total medical assistance expenditures for FFY 1995 (excluding administrative costs).

The growth amount for FFY 1995 is equal to the projected percentage increase (the growth factor) in a low-DSH State's total Medicaid program expenditures between FFY 1994 and FFY 1995 multiplied by the State's final DSH allotment for 1994. Because the national DSH limit is considered a target, a low-DSH State whose program grows from one year to the next can receive a growth amount that would not be permitted if the national limit was viewed as an absolute cap.

There is no growth factor and no growth amount for any low-DSH State whose Medicaid program does not grow (that is, stayed the same or declined) between fiscal years FFY 1994 and FFY 1995. Furthermore, because a low-DSH State's FFY 1995 DSH allotment cannot exceed 12 percent of the State's total medical assistance expenditures, it is possible for its FFY 1995 DSH allotment to be lower than its FFY 1994 DSH allotment. This situation occurs when the State experiences a decrease in its program expenditures between years and its prior FFY DSH allotment is greater than 12 percent of the total projected medical assistance expenditures for the current FFY. This situation did not occur for FFY 1995. Consequently, there are no States with preliminary FFY 1995 State DSH allotments that are lower than the final FFY 1994 State DSH allotments.

There is no supplemental amount available for redistribution for FFY 1995. The supplemental amount, if any, is equal to a low-DSH State's proportional share of a pool of funds (the redistribution pool). The redistribution pool is equal to the national 12-percent DSH target reduced by the total of the base allotments for high-DSH States, the total of the State DSH allotments for the previous FFY for low-DSH States, and the total of the low-DSH State growth amounts. Since the sum of these amounts is above the projected FFY 1995 national 12 percent DSH target, there is no redistribution pool and, therefore, no supplemental amounts for FFY 1995.

As prescribed in the law and regulations, no State's DSH allotment will be below a minimum of \$1 million.

As an exception to the above requirements, under section 1923(f)(1)(A)(i)(II) of the Act and regulations at 42 CFR 447.296(b)(5) and 447.298(f), a State may make DSH payments for a FFY in accordance with the minimum payment adjustments required by Medicare methodology described in section 1923(c)(1) of the

Act. Nebraska's preliminary State DSH allotment has been determined in accordance with this exception.

We are publishing in this notice the preliminary FFY 1995 national DSH target and State DSH allotments based on the best available data we have at this time from the States as adjusted by HCFA. This data is taken from each State's August 1994 Form HCFA-37 and is adjusted as necessary. The final FFY 1995 DSH allotments will be published in the **Federal Register** by April 1, 1995.

II. Calculations of the Preliminary FFY 1995 DSH Limits

The total of the preliminary State DSH allotments for FFY 1995 is equal to the sum of the base allotments for all high-DSH States, the FFY 1994 State DSH allotments for all low-DSH States, and the growth amounts for all low-DSH States. A State-by-State breakdown is presented in section III of this notice.

We classified States as high-DSH or low-DSH States. If a State's base allotment exceeded 12 percent of its total unadjusted medical assistance expenditures (excluding administrative costs) projected to be made under the State's approved plan in FFY 1995, we classified that State as a "high-DSH" State. If a State's base allotment was 12 percent or less of its total unadjusted medical assistance expenditures projected to be made under the State's approved State plan under title XIX of the Act in FFY 1995, we classified that State as a "low-DSH" State. There are 34 low-DSH States and 16 high-DSH States for FFY 1995 as a result of this classification.

Using the most recent data from the August 1994 budget projections (Form HCFA-37), we estimate the States' FFY 1995 national total medical assistance expenditures to be \$155,059,961,000. Thus, the overall preliminary national FFY 1995 DSH expenditure target is approximately \$18.6 billion (12 percent of \$155.1 billion).

In addition, in the preliminary FFY 1995 State DSH allotments we provide a total of \$752,609,000 (\$417,509,000 Federal share) in growth amounts for the 34 low-DSH States. The growth factor percentage for each of the low-DSH States was determined by

calculating the Medicaid program growth percentage for each low-DSH State between FFY 1994 and FFY 1995. To compute this percentage, we first ascertained each low-DSH State's estimate of total FFY 1994 medical assistance and administrative expenditures as reported on the State's Medicaid Budget Report (Form HCFA-37) submitted in August 1994. Next, we compared those estimates to each low-DSH State's total estimated unadjusted FFY 1995 medical assistance and administrative expenditures as reported to HCFA on the State's August 1994 Form HCFA-37 submission.

The growth factor percentage was multiplied by the low-DSH State's final FFY 1994 DSH allotment amount to establish the State's preliminary growth amount for FFY 1995.

Since the sum of the total of the base allotments for high-DSH States, the total of the State DSH allotments for the previous FFY for low-DSH States, and the growth for low-DSH States (\$19,242,708,000) is greater than the preliminary FFY 1995 national target (\$18,607,195,000), there is no preliminary FFY 1995 redistribution pool.

The low-DSH State's growth amount was then added to the low-DSH State's final FFY 1994 DSH allotment amount to establish the preliminary total low-DSH State DSH allotment for FFY 1995. If a State's growth amount, when added to its final FFY 1994 DSH allotment amount, exceeds 12 percent of its FFY 1995 estimated medical assistance expenditures, the State only receives a partial growth amount which, when added to its final FFY 1994 allotment, limits its total State DSH allotment for FFY 1995 to 12 percent of its estimated FFY 1995 medical assistance expenditures. For this reason, seven of the low-DSH States received partial growth amounts.

As we explained above, in accordance with the minimum payment adjustments required by Medicare methodology, Nebraska's preliminary FFY 1995 State DSH allotment is \$11 million.

In summary, the total of all preliminary State DSH allotments for FFY 1995 is \$19,242,708,000

(\$10,978,517,000 Federal share). This total is composed of the prior FFY's final State DSH allotments (\$18,490,099,000) plus growth amounts for all low-DSH States (\$752,609,000) plus supplemental amounts for low-DSH States (\$0). The total of all preliminary FFY 1995 State DSH allotments is 12.6 percent of the total medical assistance expenditures (excluding administrative costs) projected to be made by these States in FFY 1995. The total of all preliminary DSH allotments for FFY 1995 is \$635,513,000 over the FFY 1995 preliminary national target amount of \$18,607,195,000.

Each State should monitor and make any necessary adjustments to its DSH spending during FFY 1995 to ensure that its actual FFY 1995 DSH payment adjustment expenditures do not exceed its final State DSH allotment for FFY 1995 which will be published by April 1, 1995. As the ongoing reconciliation between actual FFY 1995 DSH payment adjustment expenditures and the final FFY 1995 DSH allotments takes place, each State should amend its plans as may be necessary to make any adjustments to its FFY 1995 DSH payment adjustment expenditure patterns so that the State will not exceed its final FFY 1995 DSH allotment.

The FFY 1995 reconciliation of DSH allotments to actual expenditures will take place on an ongoing basis as States file expenditure reports with HCFA for DSH payment adjustment expenditures applicable to FFY 1995. In addition, additional DSH payment adjustment expenditures made in succeeding FFYs that are applicable to FFY 1995 will continue to be reconciled back to each State's final FFY 1995 DSH allotment as additional expenditure reports are submitted to ensure that the final FFY 1995 DSH allotment is not exceeded. Any DSH payment adjustment expenditures in excess of the final DSH allotment will be disallowed.

Any DSH expenditures that are disallowed will be subject to the normal Medicaid disallowance procedures.

III. Preliminary FFY 1995 DSH Allotments Under Public Law 102-234

KEY TO CHART

Column	Description
Column A	= Name of State.
Column B	= Final FFY 1994 DSH Allotments For All States. For a high-DSH State, this is the State's base allotment which is the greater of the State's FFY 1992 allowable DSH payment adjustment expenditures applicable to FFY 1992, or \$1,000,000. For a low-DSH State, this is equal to the final DSH allotment for FFY 1994 which was published in the Federal Register on May 2, 1994.

KEY TO CHART—Continued

Column	Description
Column C	= Growth Amounts For Low-DSH States. This is an increase in a low-DSH State's final FFY 1994 DSH allotment to the extent that the State's Medicaid program grew between FFY 1994 and FFY 1995.
Column D	= Preliminary FFY 1995 State DSH Allotments. For high DSH States this is equal to the base allotment from column B. For low-DSH States, this is equal to the final State DSH allotments for FFY 1994 from column B plus the growth amounts from column C and the supplemental amounts, if any, from column D.
Column E	= High or Low DSH State Designation. "High" indicates the State is a high-DSH State and a "Low" indicates the State is a low-DSH State.

PRELIMINARY FEDERAL FISCAL YEAR 1995 DISPROPORTIONATE SHARE HOSPITAL ALLOTMENTS UNDER PUBLIC LAW 102-234 AMOUNTS ARE STATE AND FEDERAL SHARES

[Dollars are in thousands(000)]

State	Final FFY 94 DSH allotments for all states	Growth amounts for low DSH states (1)	Preliminary FFY 95 state DSH allotments	High or low DSH state designation
A	B	C	D	E
AL	\$417,458	NOT APPLICABLE	\$417,458	HIGH.
AK	\$19,589	\$1,273	\$20,862	LOW.
AR	\$3,039	\$203	\$3,242	LOW.
CA	\$2,191,451	NOT APPLICABLE	\$2,191,451	HIGH.
CO	\$302,014	NOT APPLICABLE	\$302,013	HIGH.
CT	\$408,933	NOT APPLICABLE	\$408,933	HIGH.
DE	\$5,924	\$1,063	\$6,986	LOW.
DC	\$41,039	NOT APPLICABLE	\$41,039	LOW.
FL	\$286,478	\$76,223	\$362,701	LOW.
GA	\$382,344	\$34,880	\$417,224	LOW.
HI	\$64,078	\$3,887	\$67,965	LOW.
ID	\$1,985	\$126	\$2,111	LOW.
IL	\$394,993	\$69,434	\$464,427	LOW.
IN	\$336,799	\$31,516	\$368,315	LOW.
IA	\$5,497	\$689	\$6,186	LOW.
KS	\$188,935	NOT APPLICABLE	\$188,935	HIGH.
KY	\$264,289	NOT APPLICABLE	\$264,289	HIGH.
LA	\$1,217,636	NOT APPLICABLE	\$1,217,636	HIGH.
ME	\$165,317	NOT APPLICABLE	\$165,317	HIGH.
MD	\$129,543	\$15,000	\$144,543	LOW.
MA	\$567,128	\$19,052	\$586,180	LOW.
MI	\$617,700	\$67,497	\$685,197	LOW.
MN	\$55,394	\$5,225	\$60,618	LOW.
MS	\$158,464	\$16,481	\$174,946	LOW.
MO	\$731,894	NOT APPLICABLE	\$731,894	HIGH.
MT	\$1,300	\$78	\$1,378	LOW.
NE(2)	\$11,000	NOT APPLICABLE	\$11,000	LOW.
NV	\$73,560	NOT APPLICABLE	\$73,560	HIGH.
NH	\$392,006	NOT APPLICABLE	\$392,006	HIGH.
NJ	\$1,094,113	NOT APPLICABLE	\$1,094,113	HIGH.
NM	\$15,757	\$1,743	\$17,501	LOW.
NY	\$2,831,864	\$206,729	\$3,038,594	LOW.
NC	\$389,266	\$49,413	\$438,679	LOW.
ND	\$1,155	\$38	\$1,193	LOW.
OH	\$566,925	\$73,044	\$639,969	LOW.
OK	\$23,568	\$529	\$24,097	LOW.
OR	\$25,058	\$5,537	\$30,594	LOW.
PA	\$967,407	NOT APPLICABLE	\$967,407	HIGH.
RI	\$94,432	\$7,705	\$102,137	LOW.
SC	\$439,759	NOT APPLICABLE	\$439,759	HIGH.
SD	\$1,302	\$137	\$1,439	LOW.
TN	\$430,611	NOT APPLICABLE	\$430,611	HIGH.
TX	\$1,513,029	NOT APPLICABLE	\$1,513,029	HIGH.
UT	\$5,514	\$651	\$6,165	LOW.
VT	\$26,662	\$1,351	\$28,013	LOW.
VA	\$185,746	\$26,038	\$211,785	LOW.
WA	\$307,993	\$33,210	\$341,202	LOW.
WV	\$121,883	\$1,710	\$123,592	LOW.
WI	\$10,881	\$1,978	\$12,859	LOW.
WY	\$1,389	\$170	\$1,559	LOW.
TOTAL	\$18,490,099	\$752,609	\$19,242,708	,

PRELIMINARY FEDERAL FISCAL YEAR 1995 DISPROPORTIONATE SHARE HOSPITAL ALLOTMENTS UNDER PUBLIC LAW 102-234 AMOUNTS ARE STATE AND FEDERAL SHARES—CONTINUED

[Dollars are in thousands(000)]

State A	Final FFY 94 DSH allotments for all states B	Growth amounts for low DSH states (1) C	Preliminary FFY 95 state DSH al- lotments D	High or low DSH state des- ignation E
NOTES:				

- (1) There was 1 low DSH State which had negative growth and 7 low DSH States which got partial growth up to 12% of FFY 95 Map.
 (2) Allotment based upon minimum payment adjustment amount.

IV. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Administrator certifies that a notice would not have a significant economic impact on a substantial number of small entities. For purposes of a RFA, States and individuals are not considered small entities. However, providers are considered small entities. Additionally, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice does not contain rules; rather, it reflects the DSH allotments for each State as determined in accordance with §§ 447.297 through 447.299.

We have discussed the method of calculating the preliminary FFY 1995 national aggregate DSH target and the preliminary FFY 1995 individual State DSH allotments in the previous sections of this preamble. These calculations should have a positive impact on payments to DSHs. Allotments will not be reduced for high-DSH States since we are now interpreting the 12-percent limit as a target. Low-DSH States will get their base allotments plus their growth amounts.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Catalog of Federal Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 28, 1994.

Bruce C. Vladek,
Administrator, Health Care Financing Administration.

Dated: November 16, 1994.

Donna E. Shalala,
Secretary.
 [FR Doc. 95-850 Filed 1-12-95; 8:45 am]
BILLING CODE 4120-01-P

Social Security Administration**Agency Forms Submitted to the Office of Management and Budget for Clearance**

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, November 25, 1994. (Call Reports Clearance Officer on (410) 965-4142 for copies of package.)

1. Supplemental Security Income Notice of Interim Assistance Reimbursement (TWO FORMS)—0960-NEW. Forms SSA-8125 and SSA-L8125 will collect interim assistance reimbursement (IAR) information from States which provide such reimbursement. Form SSA-8125 will be used in most cases. The use of form SSA-L8125 will be limited to situations where a person is collecting Supplemental Security Income payments because of disability due to drug abuse or alcoholism. The respondents will be States who provide IAR.

Number of Respondents: 140,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 23,333 hours.

2. Pre-1957 Military Service Federal Benefit Questionnaire—0960-0120. The information on form SSA-2512 is used by the Social Security Administration to establish whether the wage earner's military service may be used to determine entitlement to or the amount of any Social Security benefit payable. The respondents are claimants who are applying for Social Security benefits on a record where the wage earner has pre-1957 military service.

Number of Respondents: 56,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 9,333 hours.

3. Reconsideration Report for Disability Cessation—0960-0350. The information on form SSA-782 is used by the Social Security Administration to obtain additional information and evidence to support requests for reconsideration. The respondents are claimants under Title II and Title XVI of the Social Security Act who file a request for reconsideration of disability benefits.

Number of Respondents: 11,550.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 5,775 hours.

OMB Desk Officer: Laura Oliven.
 Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, D.C. 20503.

Dated: January 9, 1995.
Charlotte Whitenight,
Reports Clearance Officer, Social Security Administration.
 [FR Doc. 95-924 Filed 1-12-95; 8:45 am]
BILLING CODE 4190-29-P-M