

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****42 CFR Part 7**

[Docket No. CDC-2013-0013]

RIN 0920-AA52

**Distribution of Reference Biological Standards and Biological Preparations**

**AGENCY:** Centers for Disease Control and Prevention (HHS/CDC), Department of Health and Human Services (HHS).

**ACTION:** Confirmation of effective date of direct final rule.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) is publishing this document to confirm the effective date of the Direct Final Rule (DFR), published on July 22, 2013 (78 FR 43817).

**DATES:** The Direct Final Rule published at 78 FR 43817, July 22, 2013, will become effective on September 20, 2013.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning this document: Dr. Carolyn M. Black, M.D., Division of Scientific Resources, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop C-17, Atlanta, Georgia 30333; telephone 404-639-3466.

**SUPPLEMENTARY INFORMATION:** On July 22, 2013, HHS/CDC published a Direct Final Rule (DFR) amending 42 CFR part 7 to update the agency name, address, and contact information for that part (78 FR 43817). In that document, HHS/CDC indicated that if we did not receive any significant adverse comments on the direct final rule by August 21, 2013, we would publish a document in the **Federal Register** confirming the effective date of the direct final rule within 30 days after the end of the comment period. HHS/CDC did not receive significant adverse comment to the DFR. Therefore, consistent with the Direct Final Rule, the updated agency name and address and contact information for 42 CFR part 7 will become effective on September 20, 2013 (78 FR 43817).

Dated: September 11, 2013.

**Kathleen Sebelius,**

*Secretary.*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare & Medicaid Services****42 CFR Part 447**

[CMS-2367-F]

RIN 0938-AR31

**Medicaid Program; State Disproportionate Share Hospital Allotment Reductions**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** The statute, as amended by the Affordable Care Act, requires aggregate reductions to state Medicaid Disproportionate Share Hospital (DSH) allotments annually from fiscal year (FY) 2014 through FY 2020. This final rule delineates a methodology to implement the annual reductions for FY 2014 and FY 2015. The rule also includes additional DSH reporting requirements for use in implementing the DSH health reform methodology.

**DATES: Effective Date:** These regulations are effective on November 18, 2013.

**FOR FURTHER INFORMATION CONTACT:** Rory Howe, (410) 786-4878; or Richard Strauss, (410) 786-2019.

**SUPPLEMENTARY INFORMATION:****I. Executive Summary***A. Purpose*

The statute as amended by the Affordable Care Act sets forth aggregate reductions to state Medicaid disproportionate share hospital (DSH) allotments annually from fiscal year (FY) 2014 through FY 2020. This final rule delineates the DSH Health Reform Methodology (DHRM) to implement the annual reductions for FY 2014 and FY 2015.

*B. Summary of the Major Provisions*

The statute as amended by the Affordable Care Act directs the Secretary to implement the annual DSH allotment reductions using a DHRM. This rule amends part 447 by establishing the DHRM. The DHRM incorporates five factors identified in the statute.

*C. Costs and Benefits*

Taking these five factors into account for each state, the DHRM will generate a state-specific DSH allotment reduction amount for FY 2014 and FY 2015. The total of all DSH allotment reduction amounts will equal the aggregate annual

reduction amounts identified in the statute for FY 2014 and FY 2015. To determine the effective annual DSH allotment for each state, the state-specific annual DSH allotment reduction amount will be applied to the unreduced DSH allotment amount for its respective state.

**II. Background***A. Introduction*

As a result of the Affordable Care Act, millions of Americans will have access to health insurance coverage through qualified health plans offered through Health Insurance Exchanges (also called Marketplaces) or through Medicaid and Children's Health Insurance Program. This increase in the number of individuals having access to health insurance is expected to significantly reduce levels of uncompensated care provided by hospitals.

On the assumption that the number of uninsured people will fall sharply beginning in 2014, the statute reforms an existing Medicaid payment program for hospitals which serve a disproportionate share of low income patients, and therefore, may have uncompensated care costs. Under sections 1902(a)(13)(A)(iv) and 1923 of the Social Security Act (the Act), states are required to make payments to qualifying "disproportionate share" hospitals (DSH payments). Section 2551 of the Affordable Care Act amended section 1923(f) of the Act, by adding paragraph (7), to provide for aggregate reductions in federal funding under the Medicaid program for such DSH payments for the 50 states and the District of Columbia. This reform of the DSH payment authority is consistent with the reduction of uncompensated care costs (particularly those associated with the uninsured) expected to result from the expansion of coverage under the statute.

Section 1923(f)(7)(A)(i) of the Act requires that the Secretary of Health and Human Services (the Secretary) implement the aggregate reductions in federal funding for DSH payments through reductions in annual state allotments of federal funding for DSH payments (state DSH allotments), and accompanying reductions in payments to each state. The amount of federal funding for DSH payments for each state is limited to an annual state DSH allotment in accordance with section 1923(f) of the Act. Section 1923(f)(7) of the Act requires the use of a DHRM to determine the percentage reduction in each annual state DSH allotment to achieve the required aggregate annual reduction in federal DSH funding.