

**PROPOSED REGULATION OF THE DIVISION OF
HEALTH CARE FINANCING AND POLICY OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R045-23

October 31, 2023

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-4, NRS 422.390.

A REGULATION relating to Medicaid; revising provisions governing the calculation and distribution of disproportionate share payments to certain hospitals; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Federal law provides for the distribution of a prescribed amount of federal and state money to certain hospitals that are used by a high number of Medicaid and low-income patients. The payments made to hospitals are known as disproportionate share payments. (42 U.S.C. § 1396r-4) Existing Nevada law requires the Division of Health Care Financing and Policy of the Department of Health and Human Services to adopt regulations concerning: (1) procedures for the intergovernmental transfers of money from the counties to the Division; (2) the calculation of disproportionate share payments for hospitals; (3) procedures for adjusting a disproportionate share payment; and (4) procedures for redistributing any disproportionate share payment returned to the Division by a hospital. (NRS 422.390) Existing law further requires the board of county commissioners of each county to establish a tax rate of at least 6 cents but not more than 10 cents on each \$100 of assessed valuation for deposit into a fund for medical assistance to indigent persons. (NRS 428.275, 428.285) Existing law requires the board of county commissioners of each county to remit to the State Controller an amount of money equivalent to the amount collected from 1 cent on each \$100 of assessed valuation of all taxable property in the county for credit to the Intergovernmental Transfer Account in the State General Fund. (NRS 428.285) Existing law requires the transfer of the money in that Account to the Medicaid Budget Account for the purpose of the Division making disproportionate share payments. (NRS 422.385) **Section 4** of this regulation repeals a provision prescribing the amounts that certain governmental entities are required to transfer to the Division for the purpose of making disproportionate share payments, which is no longer necessary because the money for making the portion of such payments for which the State is responsible is remitted by the board of county commissioners pursuant to existing law.

Existing regulations: (1) establish various pools of hospitals, which are categorized based on public or private status and location; and (2) set forth the methodology for the initial calculation

and distribution of disproportionate share payments among those pools for a fiscal year. (NAC 422.115) **Section 1** of this regulation revises the manner in which the Division will calculate the amount that will be distributed among the hospitals in each pool for a fiscal year. **Section 1** also authorizes the Division to reduce the total amount available for making disproportionate share hospital payments if the taxes imposed by the boards of county commissioners do not generate revenue sufficient to make available for such payments the amount prescribed by existing regulations. **Section 1** additionally prescribes a procedure by which the money remitted by the board of county commissioners of each county is transferred to the Medicaid Budget Account for the Division to then make disproportionate share hospital supplemental payments. **Section 2** of this regulation makes a conforming change to update a reference to reflect the changes made by **sections 1 and 4**. **Section 3** of this regulation provides that the revised calculations for the initial distribution of disproportionate share payments apply to distributions made during or after Fiscal Year 2022-2023.

Section 1. NAC 422.115 is hereby amended to read as follows:

422.115 1. Except as otherwise provided in subsection 2, the Division will initially distribute for:

(a) Pool A, which consists of all public hospitals in counties whose population is 700,000 or more, total annual disproportionate share payments in the amount of ~~187.97~~ **32.46** percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(b) Pool B, which consists of all private hospitals in counties whose population is 700,000 or more, total annual disproportionate share payments in the amount of ~~11.69~~ **9.49** percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(c) Pool C, which consists of all private hospitals in counties whose population is 100,000 or more but less than 700,000, total annual disproportionate share payments in the amount of ~~15.86~~ **32.90** percent of the total computable disproportionate share hospital supplemental payments for the fiscal year;

(d) Pool D, which consists of all public hospitals in counties whose population is less than 100,000, total annual disproportionate share payments in the amount of ~~11.34~~ **5.90** percent of the total computable disproportionate share hospital supplemental payments for the fiscal year; and

(e) Pool E, which consists of all private hospitals in counties whose population is less than 100,000, total annual disproportionate share payments in the amount of ~~13.14~~ **19.25** percent of the total computable disproportionate share *hospital* supplemental payments for the fiscal year.

2. A hospital may not receive a disproportionate share payment unless the hospital meets all the requirements:

- (a) Established by federal and state statutes and regulations; and
- (b) As prescribed in the State Plan for Medicaid.

3. A hospital is not entitled to receive a disproportionate share payment that is greater than the amount of its uncompensated care costs.

4. ~~The~~ ***Except as otherwise provided in subsection 5, the*** Division will calculate the total computable disproportionate share *hospital* supplemental payments by dividing the amount allocated to this State pursuant to 42 U.S.C. § 1396r-4(f) by the federal medical assistance percentage for the current year determined pursuant to 42 U.S.C. § 1396d(b).

5. The Division may reduce the total computable disproportionate share hospital supplemental payments as necessary if the total amount remitted to the State Controller by the boards of county commissioners of the counties in this State for credit to the Intergovernmental Transfer Account in the State General Fund pursuant to subsection 3 of NRS 428.285 if that amount is insufficient to provide total computable disproportionate share hospital supplemental payments in the amount prescribed by subsection 4.

6. Money remitted by the board of county commissioners of a county for credit to the Intergovernmental Transfer Account in the State General Fund pursuant to subsection 3 of NRS 428.285 must be transferred to the Medicaid Budget Account pursuant to NRS 422.385 at least once every quarter.

Sec. 2. NAC 422.165 is hereby amended to read as follows:

422.165 To the extent that money is available from the amount transferred to the ~~Division~~ *Medicaid Budget Account* pursuant to NAC ~~422.105,~~ *422.115*, the Division will distribute \$50,000 from that amount each fiscal year to each public hospital which:

1. Is located in a county that does not have any other hospital; and
2. Is not eligible for a disproportionate share payment pursuant to this chapter.

Sec. 3. This regulation is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

The amendatory provisions of subsection 1 of NAC 422.115 apply:

1. Retroactively to distributions made during Fiscal Years 2022-2023 and 2023-2024; and
2. Prospectively to distributions made during or after Fiscal Year 2023-2024.

Sec. 4. NAC 422.105 is hereby repealed.

TEXT OF REPEALED SECTION

422.105 Intergovernmental transfers of money from certain counties to Division; discharge of duty to provide medical treatment for indigent inpatients in certain circumstances; money remitted to State Controller to be credited toward transfer to Division. (NRS 422.390)

1. In a county whose population is 100,000 or more within which a public hospital is located, the State or political subdivision responsible for the public hospital shall transfer to the Division an amount equal to:

(a) Seventy percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year, less \$1,050,000; or

(b) Sixty-eight and fifty-four one hundredths percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year,

↳ whichever is less.

2. In a county whose population is 100,000 or more within which a private hospital which receives a disproportionate share payment pursuant to paragraph (c) of subsection 1 of NAC 422.115 is located, the county shall transfer to the Division 1.95 percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year, but not more than \$1,500,000.

3. If a county transfers to the Division the amount required pursuant to subsection 2, the county is discharged of the duty and is released from liability for providing medical treatment for indigent inpatients who are treated in the hospital in the county that receives a payment pursuant to paragraph (c) of subsection 1 of NAC 422.115.

4. The amount remitted by the board of county commissioners of a county to the State Controller pursuant to subsection 3 of NRS 428.285 will be credited toward any amount which the State or political subdivision of this State, as applicable, is required to transfer to the Division pursuant to subsection 1 or 2 of this section.

