

Proposed Rule 2315-P
Medicaid Disproportionate Share Hospital Payments Uninsured Definition
(Title 42 of the Code of Federal Regulations (CFR) §447.295)
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PART 447—PAYMENTS FOR SERVICES

1. The authority citation for part 447 continues as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart E—Payment Adjustments for Hospitals That Serve a Disproportionate Number of Low-Income Patients

2. Add § 447.295 to read as follows:

§ 447.295 Hospital-Specific Disproportionate Share Hospital Payment Limit: Determination of Individuals without Health Insurance or Other Third Party Coverage.

- (a) *Basis and purpose.* This section sets forth the methodology for determining the costs for individuals who have no health insurance or other source of third party coverage for services furnished during the year for purposes of calculating the hospital-specific disproportionate share hospital payment limit under section 1923(g) of the Act.
- (b) *Definitions.* *Individuals who have no health insurance (or other source of third party coverage) for the services furnished during the year* means individuals who have no source of third party coverage for the specific inpatient hospital or outpatient hospital service furnished by the hospital. *Lifetime or annual health insurance coverage limit* means an annual or lifetime limit, imposed by a third party payer, that establishes a maximum dollar value, or maximum number of specific services, on a lifetime or annual basis, for benefits received by an individual. *No source of third party coverage for a specific inpatient hospital or outpatient hospital service* means that the service is not included in an individual's health benefits coverage through a group health plan or health insurer, and for which there is no other legally liable third party. When a lifetime or annual coverage limit is imposed by a third party payer, specific services beyond the limit would not be within the individual's health benefit package from that third party payer. For American Indians/Alaska Natives, HIS and tribal coverage is only considered third party coverage when services are received directly from IHS or tribal health programs (direct health care services) or when IHS or a tribal health program has authorized coverage through the contract health service program (through a purchase order or equivalent document). Administrative denials of payment, or requirements for satisfaction of deductible, copayment or coinsurance liability, do not affect the determination that a specific service is included in the health benefits coverage.
- (c) *Determination of an individual's third party coverage status.* Individuals who have no source of third party coverage for a specific inpatient hospital or outpatient hospital service must be considered, for purposes of that service, to be uninsured. This determination is not dependent on the receipt of payment by the hospital from the third party.
- (1) The determination of an individual's status as having a source of third party coverage must be a service specific coverage determination. The service-specific

coverage determination can occur only once per individual per service provided and applies to the entire service, including all elements as that service, or similar services, would be defined in Medicaid.

- (2) Individuals who are inmates in a public institution or are otherwise involuntarily in secure custody as a result of criminal charges are considered to have a source of third party coverage.
- (d) *Hospital-specific DSH limit calculation.* Only costs incurred in providing inpatient hospital and outpatient hospital services to Medicaid individuals, and revenues received with respect to those services, and costs incurred in providing inpatient hospital and outpatient hospital services, and revenues received with respect to those services, for which a determination has been made in accordance with paragraph (c) of this section that the services were furnished to individuals who have no source of third party coverage for the specific inpatient hospital or outpatient hospital service are included when calculating the costs and revenues for Medicaid individuals and individuals who have no health insurance or other source of third party coverage for purposes of section 1923(g)(1) of the Act.