

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

EMERGENCY RULE

13 CSR 70-15.230 Supplemental Upper Payment Limit Methodology.

PURPOSE: This rule establishes a methodology for determining Upper Payment Limit (UPL) payments provided to hospitals for dates of service beginning July 1, 2011. The regulation also establishes an additional UPL supplemental payment for hospitals with a Low Income and Needy Care Collaboration Agreement.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division by rule and regulation must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance. This emergency rule will ensure payment to Missouri hospitals providing health care to over nine hundred thousand (900,000) Missourians eligible for the MO HealthNet program. This emergency rule must be implemented on an emergency basis because it establishes the calculation of the Upper Payment Limit payments effective for dates of service beginning July 1, 2011 to ensure that quality health care continues to be provided to MO HealthNet participants at hospitals that have relied on MO HealthNet payments to meet those patients' needs. In addition, this regulation enables private hospitals to partner with state or local government entities to collaboratively provide health care to low income and needy patients. The current regulation makes UPL payments based on complicated formulas and targets hospitals with unreimbursed uninsured costs and trauma centers. This new rule enables the Department to simplify the UPL calculations and base UPL payments on Medicaid utilization which allows the Department to pay more hospitals rather than targeting trauma centers and those having unreimbursed uninsured costs. This rule also provides for UPL payments to private hospitals that partner with state or local government entities to collaboratively provide health care to low income and needy patients for dates of service beginning July 1, 2011 that are otherwise not available. As a result, the MO HealthNet Division finds an immediate danger to public health, safety, and/or welfare and a compelling governmental interest which requires emergency action. The MO HealthNet program has a compelling government interest in providing continued cash flow for inpatient hospital services. The current regulation only provides for UPL payments through June 30, 2011 so UPL payments would not be able to be made beginning July 1, 2011. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended by the **Missouri and United States Constitutions**. The MO HealthNet Division believes this emergency rule is fair to all interested persons and parties under the circumstances. MO HealthNet Division staff worked extensively with the Missouri Hospital Association to ensure that the industry as a whole was adequately represented. Missouri Hospital Association representatives attended numerous meetings. This regulation was reviewed by Missouri Hospital Association staff and is supported by the Missouri Hospital Association Board. A proposed rule covering this same material will be published in this issue of the Missouri*

Register. Therefore, the Division believes this emergency to be fair to all interested persons and parties under the circumstances. This emergency rule was filed May 20, 2011, effective July 1, 2011, expires December 28, 2011.

(1) General Principles.

(A) Hospital UPL payments cannot exceed the Medicare Upper Payment Limit as authorized by federal law and included in Missouri's State Plan.

(2) Beginning with State Fiscal Year 2012, each participating hospital may be paid supplemental payments up to the Medicare Upper Payment Limit (UPL).

(A) UPL Payment. Supplemental payments may be paid to qualifying hospitals for inpatient services. The total amount of supplemental payments made under this section in each year shall not exceed the Medicare Upper Payment Limit, after accounting for all other supplemental payments. Payments under this section will be determined prior to the determination of payments under section (B) below authorizing Medicaid UPL supplemental payments for low income and needy care collaboration hospitals.

1. The state shall determine the amount of Medicaid supplemental payments payable under this section on an annual basis. The state shall calculate the Medicare Upper Payment Limit for each of the three categories of hospitals: state hospitals, non-state governmental hospitals, and private hospitals. The state shall apportion the Medicaid supplemental payments payable under this section to each of the three categories of hospitals based on the proportionate Medicare Upper Payment Limits for each category of hospitals.

2. Each participating hospital may be paid its proportional share of the UPL gap based upon its Medicaid inpatient utilization.

(B) Supplemental Payments for Low Income and Needy Care Collaboration Hospitals. Additional Supplemental Payments for Low Income and Needy Collaboration Hospitals may be made if there is room remaining under the UPL to make additional payments without exceeding the UPL, after making the UPL payments in (2)(A) above.

1. Effective for dates of services on or after July 1, 2011, supplemental payments may be issued to qualifying hospitals for inpatient services after July 1, 2011. Maximum aggregate payments to all qualifying hospitals under this section shall not exceed the available Medicare Upper Payment Limit, less all other Medicaid inpatient payments to private hospitals under this State Plan which are subject to the Medicare Upper Payment Limit.

2. Qualifying Criteria. In order to qualify for the supplemental payment under this section, the private hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement. The state or local governmental entity includes governmentally supported hospitals.

A. A private hospital is defined as a hospital that is owned or operated by a private entity.

B. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a private hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

C. Reimbursement Methodology. Each qualifying private hospital may be eligible to receive supplemental payments. The total supplemental payments in any fiscal year will not exceed the lesser of:

(I) The difference between each qualifying hospital's inpatient Medicaid billed charges

and Medicaid payment the hospital receives for covered inpatient services for Medicaid participants during the fiscal year; or

(II) For hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) program, the difference between the hospital's specific DSH cap and the hospital's DSH payments during the fiscal year.

D. Payments under this section will be determined after the determination of payments under subsection 2(A) above authorizing Medicaid UPL supplemental payments.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2010. Original rule filed May 20, 2011. Emergency rule filed May 20, 2011, effective July 1, 2011, expires Dec. 28, 2011.