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New Hampshire Office of Legislative Budget Assistant

"Uncompensated Care Payments"

Fiscal Issue Brief *December 2018*

Background

Disproportionate Share Hospital (DSH) payments were authorized by the federal government in the early 1980s as a form of relief for hospitals that served a disproportionate share of indigent patients. The intent was for the Medicaid program to reimburse hospitals for ***uncompensated care costs***, defined as the Medicaid shortfall (the difference between the actual cost of services and the amount paid by Medicaid), plus the unpaid cost of care for uninsured individuals.

Funding and Program History

RSA 84-A requires hospitals to pay a ***Medicaid Enhancement Tax (MET)*** on net patient services revenue. Prior to 2011, the state made uncompensated care payments to each hospital equal to the amount of MET paid by that hospital. These payments were effectively funded half with MET revenue and half with federal matching funds, while the other half of MET collections were retained by the state as unrestricted general fund revenue. Between FY 2011 and FY 2014, the state made multiple changes to the DSH distribution formula, eventually instituting a comprehensive revision in 2014. This revision was the result of a settlement agreement with the hospitals, which had filed suit over the constitutionality of the MET. In 2016, the hospitals, along with hospitals in other states, filed suit against the federal Centers for Medicare and Medicaid Services (CMS) over the federal methodology for determining uncompensated care costs. This second round of lawsuits resulted in another settlement agreement with the state in 2018, linking uncompensated care payments to MET revenue through FY 2024.

2018 Settlement

The 2018 settlement agreement was codified in state law by Chapter 162:31-34, Laws of 2018 (HB 1817). The agreement requires the state to make the following payments to hospitals from FY 2020-24 (the agreement was effective beginning in FY 2018, with a slightly different distribution formula in the first two years):

(1) An amount equal to 86 percent of MET revenue in the form of uncompensated care payments;
(2) An amount equal to 5 percent of MET revenue in the form of provider rate increases; and
(3) Up to $250,000 per year to each "deemed disproportionate share hospital" as defined in federal law, of which New Hampshire typically has two to three per year.

Although the agreement directly ties uncompensated care payments to the amount of MET revenue collected, it does so only in the aggregate, unlike the pre-2011 arrangement in which individual hospitals received payments equal to the amount of MET they paid to the state. As with the 2014 agreement, MET

revenue remaining after the above items are fulfilled is dedicated to the state's Medicaid managed care program, effectively freeing up general funds that would otherwise be spent on that program. Using assumptions made during settlement negotiations, the agreement is projected to result in the following distribution for the FY 2020/21 biennium:

Estimated Distribution of MET Revenue Per 2018 Hospital Agreement, FY 2020/21 (In Millions)			
1		**FY 2020**	**FY 2021**
2	MET Rate	5.40%	5.40%
3	**Estimated MET Revenue**	**$260.88**	**$270.27**
4			
5	Payments to Hospitals:		
6	Uncompensated Care Costs (UCC) as % of MET	86.0%	86.0%
7	*State Share of UCC*	$112.18	$116.22
8	*Federal Share of UCC*	$112.18	$116.22
9	Provider Rate Increases as % of MET	5.0%	5.0%
10	*State Share of Provider Rate Increases*	$6.52	$6.76
11	*Federal Share of Provider Rate Increases*	$6.52	$6.76
12	Deemed DSH Payments (Assumes two qualifying hospitals)	$0.50	$0.50
13	*State Share of Deemed DSH Payments*	$0.25	$0.25
14	*Federal Share of Deemed DSH Payments*	$0.25	$0.25
15	**Total Payments to Hospitals:**	**$237.90**	**$246.45**
16			
17	**MET Available for Medicaid Managed Care** (Row 3, minus rows 7, 10, & 13)	**$141.93**	**$147.05**