



AMERICA'S
ESSENTIAL
HOSPITALS

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Frequently Asked Questions about Medicaid and Medicare DSH Funds

Background

Congress created disproportionate share hospital (DSH) payments to help cover the cost of otherwise uncompensated care—including Medicaid payment shortfalls—at hospitals that treat large numbers of vulnerable patients. The Affordable Care Act (ACA) significantly cuts Medicaid and Medicare DSH payments, threatening essential hospitals' ability to provide care for all patients.

The ACA explicitly set the level of Medicaid DSH cuts at \$18 billion and has no provision to adjust that total to reflect the actual level of uncompensated care hospitals provide. Under the original law, the U.S. Department of Health and Human Services (HHS) must reduce aggregate state Medicaid DSH allotments by specific amounts each year, starting in fiscal year (FY) 2014, through FY 2020.

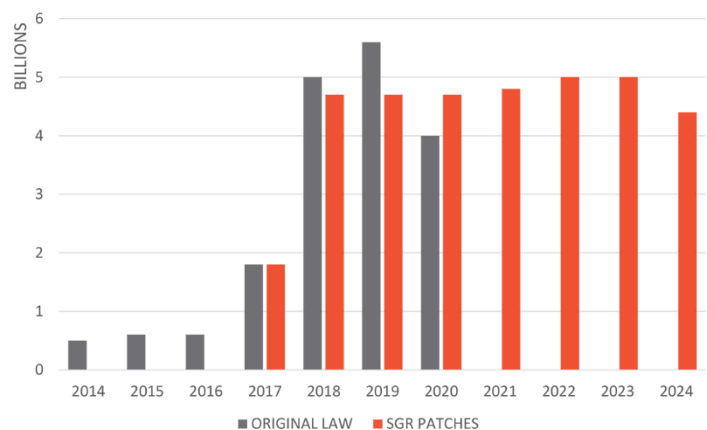
The law was silent about what happens to Medicaid DSH allotments in FY 2021 and beyond. The Congressional Budget Office interpreted the law to mean that Medicaid DSH allotments would return to pre-ACA levels.

What is the Status of Medicaid DSH cuts?

Recognizing that Medicaid DSH cuts could offset other spending, Congress extended the cuts four times, from FY 2020 through FY 2024, and used the savings for other priorities. Twice, the savings paid for patches to Medicare's sustainable growth rate (SGR)—and each time, America's Essential Hospitals fought for and won a delay in the Medicaid DSH cuts,

which now will start in FY 2017 without further congressional action (Figure 1).

FIGURE 1: MEDICAID DSH CUTS AS ENACTED VERSUS CURRENT STATUS



What about Medicare DSH Cuts?

The ACA also cut Medicare DSH by \$22 billion from fiscal years 2014 to 2019. But these cuts are made differently than those for Medicaid DSH, using a complicated formula that redirects some Medicare DSH funding to providers that serve high volumes of low-income patients. The formula also accounts for the nation's aggregate level of insurance coverage. If coverage fails to reach projected levels, smaller Medicare DSH cuts will occur.

Still, some essential hospitals—particularly those with large volumes of Medicare beneficiaries—have seen significant Medicare DSH cuts. This is a major concern, and one we hope to solve by working with Congress.

Why Is the Supreme Court's 2012 ACA Ruling Important for DSH?

The U.S. Supreme Court's June 2012 ruling on the ACA made the law's Medicaid expansion voluntary for states—but left unchanged the DSH cuts, which assumed a full expansion. To date, only about half the states have opted to expand Medicaid. The Kaiser Family Foundation estimates that up to 6.4 million more people could remain uninsured as a result.

The court's decision upset the careful balance of coverage expansion and DSH cuts in the original law. We estimate hospitals will experience \$53 billion more in uncompensated care costs by 2019 than expected when Congress passed the ACA in 2010. Our hospitals cannot sustain this imbalance. Already, on average, they operate with a negative 0.4 percent margin, compared with a positive 6.5 percent margin for hospitals nationwide. Without Medicaid DSH, our members would have suffered an unsustainable 8 percent loss.

Will the Medicaid DSH Cuts Affect My State?

While the size of the Medicaid DSH cuts is explicitly set under law, the impact of the cuts will vary by state. On May 13, 2013, the Centers for Medicare & Medicaid Services (CMS) released a proposed rule to implement the Medicaid DSH cuts. In that rule, CMS provided details on the methodology it would use to determine the reduction in each state's Medicaid DSH allotment. The delay in Medicaid DSH cuts until FY 2017 rendered this proposed rule moot, but new regulations are expected before those scheduled cuts begin.

What Are the Next Steps?

As part of the SGR patch laws, Congress twice recognized the problem of unsustainable Medicaid DSH cuts and delayed scheduled cuts until FY 2017. Congress also required the Medicaid and CHIP Payment and Access Commission to annually report national coverage and uncompensated care levels; the first report is due in February 2016.

America's Essential Hospitals is committed to stopping Medicaid DSH cuts in FY 2017 and to working with Congress on a long-term solution for Medicare DSH.