



March 4, 2024

**Re: Texas 2021 Medicaid DSH Examination Surveys Due: April 3, 2024
-RESPONSE REQUIRED-**

Dear Hospital DSH Examination Contacts:

DSH 2021 Examinations

In order to comply with the federal regulation regarding disproportionate share hospital (DSH) payments issued by CMS on December 19, 2008, the Texas Health and Human Services Commission (HHSC) has contracted with Myers and Stauffer LC (MSLC), a certified public accounting firm, to perform the mandated audits. (See Federal Register Vol. 73, No. 245, December 19, 2008, rules and regulations)

The regulation mandates auditing and reporting requirements for DSH payments under state Medicaid programs. The certified audit report, along with other required data elements, must be submitted by the Medicaid program to CMS by December 31, 2024. Texas' DSH year corresponds with the federal fiscal year; therefore, the DSH year under audit covers the time period from October 1, 2020 through September 30, 2021.

Since your hospital received Medicaid DSH payments during or related to these time periods, it is subject to the DSH program audit and must identify its actual Medicaid and uninsured costs incurred during the DSH year. To fulfill the other reporting requirements, several additional data elements will need to be reported by your hospital.

Per the federal regulations, Medicaid and uninsured costs must be measured using Medicare cost reporting methodologies. Every hospital that received a DSH payment during or related to these time periods must complete **DSH Survey(s)**, so the Medicaid and uninsured costs can be calculated. In addition to completing the survey document, each hospital must prepare a claims level analysis to support its uninsured services provided (and payments received) during each cost report year covering a portion of the DSH year. These analyses must be submitted to MSLC so that we can perform the necessary testing.

Once your completed surveys (and other required documents) are received by MSLC, we will contact you to address any questions we may have and to schedule a detailed examination of your survey responses if considered necessary.

It is important to the Texas Medicaid program that all hospitals that received DSH payments during or related to these time periods provide the information needed in order to complete the required federal

audit. Per 1 TAC 355.8065(o)(1)(D) “A hospital that fails to provide requested information or to otherwise comply with the independent certified audit requirements may be subject to a withholding of Medicaid disproportionate share payments or other appropriate sanctions.”

Additional Details

1. MSLC has accumulated (from Accenture/TMHP) Medicaid fee-for-service (FFS) primary claims data, Medicaid FFS Crossover/MMP claims/encounter data, Medicaid Managed Care (MCO) claims (encounter) data, and **Medicaid (FFS and MCO) Secondary claims** and encounter data. MSLC has included a summary of this data for each hospital for each survey cost report period under examination (referred to herein as “MMIS data”). Detail claims data is available upon request, and will be uploaded to the hospital’s secure web portal.
2. MMIS data must be relied upon for all In-State Medicaid Billed claims. Concerns with any MMIS claim information must be submitted on the approved Claims and Encounters Informal Appeal Form, which has been included in this transmission. Any informal appeals of MMIS data must be received, using this form, on or before the DSH Survey due date in order to be considered. **Informal MMIS data appeals are limited to compilation errors made by MSLC. Other data issues (e.g. adjudication errors by TMHP or MCOs, omitted claims or encounters, charge/payment amount discrepancies, billing errors by the hospital already appealed to HHSC, etc.) should have been considered and resolved during HHSC’s formal data appeal processes for program years 2023 and 2024 and should not be listed on the Claims and Encounters Informal Appeal Form.**
3. There is a specific type of claim included in the detail data received from TMHP for certain hospitals. These claims are the result of the Texas Dual Eligible Integrated Care Project, and pertain exclusively to dual eligible patients. These claims are referred to herein as “MMP encounters,” and have been included in either the Medicaid FFS Crossover claims data or the Medicaid MCO encounter data that has been sent to you in summary form, the detail of which will be available to you upon request. Classification of these encounters as FFS Crossover or Medicaid MCO was determined based on whether Medicare paid all or a portion of the claim (FFS Crossover) or whether the only payment came from Medicaid (Medicaid MCO). These encounters are generally restricted to patients residing in six specific counties (Bexar, Dallas, El Paso, Harris, Hidalgo and Tarrant), and are included in FFS Crossover and Medicaid MCO claims/encounter data due to a lack of significant relative volume. These encounters should be allocated on your DSH Surveys along with, and in the same manner as Medicaid FFS Crossover or Medicaid MCO claims/encounters, as discussed in the DSH 2021 Cost Allocation Methodologies Document, which is included in this transmission.
4. The Medicaid claims data from the state will be based on date of adjudication. If hospital generated Medicaid claims data (out-of-state) cannot be run on adjudication date, reports should be run on date of discharge for inpatient services and date of service for outpatient services. Hospital generated Other Medicaid Eligible (OME) claims (not billed to Medicaid) data will likely be run on discharge date, as it is not adjudicated by Medicaid.
5. Claims related to Texas Medicaid-eligible patients that have **not been billed** to Medicaid should be (self) reported as In-State Other Medicaid Eligible (OME) on the DSH Survey. It is expected that most hospitals will have claims to self-report in this section (HHSC contracted Medicare Advantage Plan dual-eligible claims, commercial insurance/Medicaid secondary claims not billed to Medicaid due to lack of payment expectation, etc.). To assist hospitals in

reporting these claims appropriately, MSLC has created a form: In-State Other Medicaid Eligibles Provider Representation (will be referred to as “In-State OME Representation”). Providers are asked to review, complete, sign and submit this form as part of their DSH submission. If a hospital reports no or abnormal OME claims on its DSH Survey and does not provide this representation, additional inquiry will be made by MSLC.

6. **NEW:** In December 2020, Congress passed the Consolidated Appropriations Act (CAA), which changes the calculation of a hospital’s DSH limit to only allow the inclusion of costs and payments for services for which the Medicaid state plan or waiver is the primary payor for such services, and the costs and payments for services to the uninsured. Therefore, the Act entirely excludes both the costs and payments for services related to Medicaid dually-enrolled individuals from the DSH uncompensated care costs (UCC) (exceptions for hospitals that meet certain criteria). Per the Medicaid Program; Disproportionate Share Hospital Third-Party Payer Rule published on February 23, 2024, which addresses changes as a result of the CAA, the change to the DSH limit will be effective for the DSH year beginning October 1, 2021. In order to prepare for implementation of the final rule, the In-State OME payor has been split into two different payor types on the DSH Survey Part II. In-State OME Medicaid Secondary may include a combination of 1) the hospital’s Medicaid Secondary MMIS data, and 2) Medicaid secondary claims for covered Medicaid services that have not been billed to Medicaid. In-State OME Medicaid Primary should include Medicaid primary claims that have not been billed to Medicaid (expected to be limited cases, e.g., Institutions for Mental Diseases (IMD) Medicaid primary claims subject to the IMD age 21-64 exclusion). See the Texas 2021 DSH Examination Instruction included with this transmission for additional information.
7. For State/Local Only Indigent Care Program claims related to programs where a private Managed Care Organization (MCO) is delivering the services to the indigent patients and is paying the hospital for the services provided, payments from the MCO must be used to offset uncompensated care cost. These claims are a subset of Exhibit A (uninsured), and the corresponding payments (both from the patient and from the MCO) should be reported on Exhibit B as uninsured (cash basis).
8. MSLC has obtained from HHSC an updated non-covered revenue code listing, which has been included in this transmission. The listing is current as of January 8, 2024 and will be relied upon by MSLC for the testing of self-reported claims during the 2021 DSH examination. MSLC will continue to use this listing for future DSH examinations until otherwise instructed by HHSC.
9. MSLC has accumulated all impacted hospitals’ supplemental payments (UC and GME) using information obtained from the State; these files are included in this transmission. Please refer to this data while completing the DSH Survey Part I.
10. MSLC has accumulated Medicaid cost report settlements using information obtained from the State. A file specific to your hospital has been included in this transmission. Please refer to this data when completing the DSH Survey(s) Part II.
11. Acceptable cost allocation methodologies are described in the DSH 2021 Cost Allocation Methodologies document, which is included in this transmission. Also discussed in this document is the requirement to report all self-reported days and charges at the revenue code level. These requirements have remained unchanged since the 2013 DSH Examination.

12. If a hospital is located within localities or districts administering Local Provider Participation Funds, it may consider completing Section L of the DSH Survey, if appropriate.
13. Payments received by the hospital for inpatient and outpatient hospital services related to COVID-19 testing and treatment of uninsured patients should be reported as uninsured payments on the DSH Survey(s) Part II if such payments were received during the cost report period(s) under examination. Please see the FAQ document referenced below for information related to these COVID-19 reimbursement reporting requirements. **MSLC has also included in this transmission a COVID-19 Reimbursement and DSH Reporting Questionnaire. Providers are asked to complete, sign and submit this questionnaire as part of their DSH submission.**
14. The DSH Survey Part I certification includes acknowledgement of the hospital's DSH results appeal rights, which are explained on the DSH Part I Survey. Note that DSH examination results appeal rights will be unchanged from previous examinations, but signed acknowledgement of these rights is required. Information related to the hospital's appeal rights will also be provided in the upcoming webinar and within the provider instruction document that will be sent to all hospital contacts along with webinar slides.
15. A Frequently Asked Questions (FAQ) document has been included in this transmission to aid hospitals in completing the DSH Surveys.
16. A listing of general information required for survey submission will be available on the HHSC website in the near future: <https://pfd.hhs.texas.gov/hospitals-clinic/hospital-services/disproportionate-share-hospitals-dsh-audit>

Demonstration Year 10 Uncompensated Care Payments Final Reconciliations (UC DY10)

In addition to the annual DSH examination, HHSC has contracted with MSLC to perform the final reconciliation of actual allowable costs to the hospital's interim distribution from the Uncompensated Care Pool for Demonstration Year 10 (UC DY10), which coincides with the 2021 Federal Fiscal year. **DSH hospitals subject to DY10 UC Reconciliation in this cycle will not need to complete their DY10 UC Surveys concurrently with their DSH Surveys. Additional communications will be distributed separately regarding this process later this year, in approximately mid-May.**

Webinar

A webinar with MSLC has been scheduled to assist hospitals in the completion of the DSH surveys. The webinar will, at a high level, discuss the CMS requirements, known issues in data collection and review, and provide a description of the survey documents. We will also answer any questions hospitals might have. The webinar is intended for the hospital personnel that will be responsible for actual completion of the surveys and will run approximately one and a half hours in length. Please see below for webinar details:

Webinar Date:

Wednesday, March 6

Time:

10:00am (CT)

An email with webinar access information will be sent to all hospital contacts of record on Tuesday, March 5. We encourage you to participate in this session; however, if hospital personnel cannot attend, the recorded presentation will be made available following the conclusion of the session. The slides to be used in the presentation will be provided with the webinar access email on March 5.

Web Portal

MSLC has contacted you regarding the setup of a secure web-based portal, which will be used to transfer files to and from you as part of this examination. We strongly encourage you to utilize this portal as the most secure and practical way to transmit documentation. If you do not wish to use the web portal, please send completed surveys with supporting documentation to:

**Myers and Stauffer LC
Attn: TX DSH Examinations
1131 SW Winding Road, Suite C
Topeka, KS 66615
Phone: 800-255-2309**

Completed DSH surveys must be submitted by April 3, 2024.

Please contact MSLC for audit questions; ask to speak with a member of the Texas DSH/UC team.

Tel: (800) 255-2309
TXDSH@mslc.com

If you have questions or concerns about this examination, please contact:

Christina Nip
Supplemental Payments Program Manager
Texas Health and Human Services Commission
Christina.Nip@hhs.texas.gov

Sincerely,



Marvin Teufel, CPA
Member
Myers and Stauffer LC

C: HHSC