

State of Vermont
Department of Vermont Health Access
280 State Drive, NOB 1 South
Waterbury, VT 05671-1010
<http://dvha.vermont.gov>

[Phone] 802-879-5900

Agency of Human Services

Date: October 13, 2016

Re: Public comment received for GCR 16-089 Inpatient Prospective Payment System – State Plan Amendment 16-0023

Comment:

Please see the letter below from Dartmouth-Hitchcock Medical Center.



September 30, 2016

AHS Medicaid Policy Unit
280 State Drive, Center Building
Waterbury, VT 05671-1000

Submitted via e-mail to: AHS.MedicaidPolicy@vermont.gov

Re: Comments to Vermont Medicaid State Plan Amendment # 16-00023

To Whom It May Concern:

On behalf of Mary Hitchcock Memorial Hospital d/b/a Dartmouth-Hitchcock (“D-H”), please accept these comments on Vermont Medicaid State Plan Amendment #16-00023. Dartmouth-Hitchcock, located in Lebanon, New Hampshire, treats approximately 75,000 Vermont residents annually. It is the second largest provider of hospital services to Vermont Medicaid beneficiaries, second only to the University of Vermont Medical Center (“UVMC”).

UVMC and D-H are similarly situated in all material respects. They are both academic medical centers, they both provide a full range of tertiary level inpatient and outpatient services to Vermont residents, they are both designated as Level 1 Trauma Centers, they both are designated as sole community hospitals, and they both operate state-of-the-art children’s hospitals. However, Vermont pays D-H materially less than it pays UVMC for providing the same services to Medicaid beneficiaries.

This discrimination against D-H is illegal and unconstitutional. D-H has sued Vermont in the United States District Court for the District of New Hampshire to enjoin these illegal policies. That lawsuit remains pending. *Mary Hitchcock Memorial Hospital d/b/a Dartmouth-Hitchcock v. Cohen, et al.*, No. 1:15-cv-453 (D.N.H.). If approved, the proposed SPA would continue that illegal conduct. Moreover, this SPA continues another unlawful practice. The accompanying policy summary makes clear that the changes set forth in this SPA are entirely budget driven. The policy summary states that the payments are “being eliminated in order to comply with Act 172 of the 2016 legislative session which required that \$4 million of funding be moved from hospital payments to primary care payments.” Medicaid reimbursement rates must be set in accordance with methodologies and standards to assure they meet a standard specified by Congress. *See* 42 U.S.C. § 1396a(a)(30)(a). Budget-driven ratemaking does not and cannot meet these standards.

These comments address two of the three adjustments proposed in the SPA.

IPPS Base Rate Adjustments

The State Plan requires updating inpatient rates every four years. Instead of using this as an opportunity to eliminate the illegal and unconstitutional discrimination against D-H, the changes proposed in the SPA compounds the discrimination. The new base rate for In-State Teaching Hospitals (e.g., UVMC) is \$8,390.00. The new base rate for Border Teaching Hospitals (e.g., D-H) is \$5,594.00. Although the proposed DRG base rate increases for border teaching hospitals in total dollars by about 7%, the relative increase to Vermont teaching hospitals is approximately 10%, thus widening the payment differential. Given the proposed DRG relative weight changes, D-H's overall reimbursement is very likely to decrease.

The SPA perpetuates other points of illegal discrimination against D-H. To take but one example, the outlier threshold for D-H remains nearly double that of Vermont hospitals - as well as an outlier payment percentage that is lower than in-state hospitals. Given the volume of Vermont patients D-H cares for, this is an inherently unfair practice, which would be compounded by the proposed changes. The State Plan should be amended to eliminate all discrimination against D-H.

Elimination of the Neonate Add-on Payment

The SPA also proposes to eliminate the Neonate Add-on Payment. This is a per diem payment that DVHA makes in addition to the DRG case rate payment for any newborn inpatient claims. The payments are being eliminated for solely budget reasons. There is no evidence that Vermont considered the factors set forth in 42 U.S.C. § 1396a(a)(30)(a). This omission is especially problematic given the highly vulnerable patients this cut impacts. Because this cut lacks any methodological basis, it should be rejected and the add-on should remain in place.

Finally, while Act 172 was being discussed in the 2016 legislative session, it was stated on numerous occasions that the intent was to exclude D-H from the reductions. Had that intent been honored, it would have been a modest first step in eliminating the gaping disparities in Vermont's Medicaid reimbursement scheme. Because it was not, D-H will absorb 25% of the \$4 million reduction. Consequently, D-H opposes the proposed SPA.

Sincerely,



John P. Kacavas
EVP, Chief Legal Officer
and General Counsel