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The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or (thirty) 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending sections (2), (5) and (15).

PURPOSE: The emergency amendment revises sections (2) and (5) to allow critical access hospitals to request a rate adjustment and subsection (15)(A) to allow for the FRA assessment not included in cost reports ending prior to January 1, 2001, the increased cost resulting from including out-of-state Medicaid days in total projected Medicaid days and for a Missouri Specific Trend.

*EMERGENCY STATEMENT: The Division of Medical Services finds that this emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment makes adjustments to the add-on payments for SFY 2002 and SFY 2003 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on these payments in meeting those needs for indigent and Medicaid recipients. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency action. If this emergency amendment is not enacted, it will cause significant cash flow shortages and financial strain on all hospitals who serve more than 850,000 Medicaid recipients. This will, in turn, result in an adverse impact on the health and welfare of those in need of medical care and treatment. A proposed amendment, which covers the same material, was published in the June 3, 2002 **Missouri Register**. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Division of Medical Services believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment was filed May 28, 2002, effective June 6, 2002, and expires December 2, 2002.*

(2) Definitions.

(G) Critical access. Hospitals which meet the federal definition found in section 1820(c)(2)(B) of the Social Security Act. A Missouri expanded definition of critical access shall also include hospitals which meet the federal definitions of both a rural referral center and sole community provider and is adjacent to at least one county that has a Medicaid eligible population of at least thirty percent (30%) of the total population of the county or hospitals which are the sole community hospital located in a county that has a Medicaid population of at least thirty percent (30%) of the total population of the county.

[(G)] **(H)** Disproportionate share reimbursement. The disproportionate share payments described in section (16), and subsection (18)(B) include both the federally mandated reimbursement for hospitals which meet the federal requirements listed in section (6) and the discretionary disproportionate share payments which are allowed but not mandated under federal regulation. A Safety Net Adjustment, section (16), and Uninsured Add-Ons, subsection (18)(B), are subject to federal limitation as described in Omnibus Reconciliation Act of 1993 (OBRA 93) and section (17) of this regulation.

[(H)] **(I)** Effective date.

1. The plan effective date shall be October 1, 1981.

2. The adjustment effective date shall be thirty (30) days after notification to the hospital that its reimbursement rate has been changed unless modified by other sections of the plan.

[(I)] **(J)** Medicare rate. The Medicare rate is the rate established on the basis of allowable cost as defined by applicable Medicare standards and principles of reimbursement (42 CFR part 405) as determined by the servicing fiscal intermediary based on yearly hospital cost reports.

[(J)] **(K)** Nonreimbursable items. For purposes of reimbursement *[f]* **of** reasonable cost, the following are not subject to reimbursement:

1. Allowances for return on equity capital;

2. Amounts representing growth allowances in excess of the intensity allowance, profits, efficiency bonuses, or a combination of these;

3. Cost in excess of the principal of reimbursement specified in 42 CFR chapter IV, part 413; and

4. Costs or services or costs and services specifically excluded or restricted in this plan or the Medicaid hospital provider manual.

[(K)] **(L)** Per-diem rates. The per-diem rates shall be determined from the individual hospital cost report in accordance with section (3) of the regulation.

[(L)] **(M)** Reasonable cost. The reasonable cost of inpatient hospital services is an individual hospital's Medicaid per-diem cost per day as determined in accordance with the general plan rate calculation from section (3) of this regulation using the base year cost report.

[(M)] **(N)** Trend factor. The trend factor is a measure of the change in costs of goods and services purchased by a hospital during the course of one (1) year.

[(N)] **(O)** Children's hospital. An acute care hospital operated primarily for the care and treatment of children under the age of eighteen (18) and which has designed in its licensure application at least sixty-five percent (65%) of its total licensed beds as a pediatric unit as defined in 19 CSR 30-20.021(4)(F).

[(O)] **(P)** FRA. The Federal Reimbursement Allowance (FRA) is identified in 13 CSR 70-15.110. Effective January 1, 1999, the assessment shall be an allowable cost.

[(P)] **(Q)** Incorporates by Reference. This rule incorporates by reference the following:

1. *Institutional Provider Manual*; and

2. Worksheet E-3 Part IV from the Medicare cost report (HCFA 2552-96).

(5) Administrative Actions.

(F) Rate Reconsideration.

1. Rate reconsideration may be requested under this subsection for changes in allowable cost which occur subsequent to the base period described in subsection (3)(A). The effective date for any increase granted under this subsection shall be no earlier than the first day of the month following the Division of Medical Services' final determination on rate reconsideration.

2. The following may be subject to review under procedures established by the Medicaid agency:

A. Substantial changes in or costs due to case mix;

B. New, expanded or terminated services as detailed in subsection (5)(C); *[and]*

C. When the hospital experiences extraordinary circumstances which may include, but are not limited to, an act of God, war or civil disturbance*[.]*; **and**

D. Per-diem rate adjustments for critical access and trauma center hospitals.

(I) Critical access hospitals meeting either the federal definition or the Missouri expanded definition may request per-diem rate adjustments in accordance with this subsection. The per-diem rate increase will result in a corresponding reduction in the Medicaid Direct payment.

(a) Hospitals which meet the federal definition as a critical access hospital may request a per-diem rate equal to one hundred percent (100%) of their estimated Medicaid cost per day as determined in section (15).

(b) Hospitals which meet the Missouri expanded definition as a critical access hospital may request a per-diem rate equal to seventy-five percent (75%) of their estimated Medicaid cost per day as determined in section (15).

3. The following will not be subject to review under these procedures:

A. The use of Medicare standards and reimbursement principles;

B. The method for determining the trend factor;

C. The use of all-inclusive prospective reimbursement rates; and

D. Increased costs for the successor owner, management or leaseholder that result from changes in ownership, management, control, operation or leasehold interests by whatever form for any hospital previously certified at any time for participation in the Medicaid program, except a review may be conducted when a hospital changes from nonprofit to proprietary or vice versa to recognize the change in its property taxes, see paragraph (5)(E)4.

4. As a condition of review, the Missouri Division of Medical Services may require the hospital to submit to a comprehensive operational review. The review will be made at the discretion of the state Medicaid agency and may be performed by it or its designee. The findings from any such review may be used to recalculate allowable costs for the hospital.

5. The request for an adjustment must be submitted in writing to the Missouri Division of Medical Services and must specifically and clearly identify the issue and the total dollar amount involved. The total dollar amount must be supported by generally acceptable accounting principles. The hospital shall demonstrate the adjustment is necessary, proper and consistent with efficient and economical delivery of covered patient care services. The hospital will be notified in writing of the agency's decision within sixty (60) days of receipt of the hospital's written request or within sixty (60) days of receipt of any additional documentation or clarification which may be required, whichever is later. Failure to submit requested information within the sixty (60)-day period shall be grounds for denial of the request. If the state does not respond within the sixty (60)-day period, the request shall be deemed denied.

(15) Direct Medicaid Payments.

(A) Direct Medicaid Payments. Direct Medicaid payments will be made to hospitals for the following allowable Medicaid costs not included in the per-diem rate as calculated in section (3):

1. The increased Medicaid costs resulting from the FRA assessment *[becoming an allowable cost on January 1, 1999]* **not included in the cost report ending prior to January 1, 2001**;

2. The unreimbursed Medicaid costs applicable to the *[SFY 1999]* trend factor which is not included in the per-diem rate;

3. The unreimbursed Medicaid costs for capital and medical education not included in the trended per-diem cost as a result of the application of the sixty percent (60%) minimum utilization adjustment in paragraph (3)(A)4.;

4. The increased cost per day resulting from the utilization adjustment. The increase cost per day results from lower utilization of inpatient hospital services by Medicaid recipients now covered by an MC+ health plan; *[and]*

5. The poison control adjustment shall be determined for hospitals which operated a poison control center during the base year and which continues to operate a poison control center in a Medicaid managed care region*[.]*; **and**

6. The increased cost resulting from including out-of-state Medicaid days in total projected Medicaid days.

(B) Direct Medicaid payment will be computed as follows:

1. The Medicaid share of the FRA assessment will be calculated by dividing the hospital's Medicaid patient days by total hospital's patient days to arrive at the Medicaid utilization percentage. This percentage is then multiplied by the FRA assessment for the current SFY to arrive at the increased allowable Medicaid costs;

2. The unreimbursed Medicaid costs are determined by subtracting the hospital's per-diem rate from its trended per-diem costs. The difference is multiplied by the estimated Medicaid patient days for the current SFY.

A. The trended cost per day is calculated by trending the base year *[operating]* costs per day by the trend indices listed in paragraph (3)(B)1., using the rate calculation in subsection (3)(A). **In addition to the trend indices applied to inflate base period costs to the current fiscal year, base year costs will be further adjusted by a Missouri Specific Trend. The Missouri Specific Trend will be used to address the fact that costs for Missouri inpatient care of Medicaid residents have historically exceeded the compounded inflation rates estimated using national hospital indices for a significant number of hospitals. The Missouri Specific Trend will be applied at one and one-half percent (1.5%) per year to the hospital's base year. For example, hospitals with a 1998 base year will receive an additional six percent (6%) trend and hospitals with a 1999 base year will receive an additional four and one-half percent (4.5%) trend.**

B. For hospitals that meet the requirements in paragraphs (6)(A)1., (6)(A)2. and (6)(A)4. of this rule (safety net hospitals), the base year cost report may be from the third prior year, the

fourth prior year, or the fifth prior year. For hospitals that meet the requirements in paragraphs (6)(A)1. and (6)(A)3. of this rule (first tier Disproportionate Share Hospitals), the base year operating costs may be the third or fourth prior year cost report. The Division of Medical Services shall exercise its sole discretion as to which report is most representative of costs. For all other hospitals, the base year operating costs are based on the fourth prior year cost report. For any hospital that has both a twelve **(12)-**month cost report and a partial year cost report, its base period cost report for that year will be the twelve **(12)-**month cost report.

C. The trended cost per day does not include the costs associated with the FRA assessment, the application of minimum utilization, the utilization adjustment and the poison control costs computed in paragraphs (15)(B)1., 3., 4., and 5.;

3. The minimum utilization costs for capital and medical education is calculated by determining the difference in the hospital's cost per day when applying the minimum utilization as identified in paragraph (5)(C)4., and without applying the minimum utilization. The difference in the cost per day is multiplied by the estimated Medicaid patient days for the SFY;

4. The utilization adjustment cost is determined by estimating the number of Medicaid inpatient days the hospital will not provide as a result of the MC+ Health Plans limiting inpatient hospital services. These days are multiplied by the hospital's cost per day to determine the total cost associated with these days. This cost is divided by the remaining total patient days from its base period cost report to arrive at the increased cost per day. This increased cost per day is multiplied by the estimated Medicaid days for the current SFY to arrive at the Medicaid utilization adjustment; *[and]*

5. The poison control cost shall reimburse the hospital for the prorated Medicaid managed care cost. It will be calculated by multiplying the estimated Medicaid share of the poison control costs by the percentage of MC+ recipients to total Medicaid recipients*[.]***; and**

6. The costs for including out-of-state Medicaid days is calculated by subtracting the hospital's per-diem rate from its trended per-diem cost and multiplying this difference by the out-of-state Medicaid days from the base year cost report.

[(C) The SFY 1999 Direct Medicaid Payments starting January 1, 1999 will be determined by subtracting the Add-On payments made for unreimbursed Medicaid costs between July 1, 1998 and December 31, 1998 from the SFY 1999 unreimbursed Medicaid costs calculated in subsection (15)(B). The difference in the unreimbursed Medicaid costs will be prorated over the remainder of the SFY 1999 and paid directly to the hospitals.]

AUTHORITY: sections 208.152, 208.153, 208.201, RSMo 2000 and 208.471, RSMo Supp. 2001. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed April 29, 2002. Emergency amendment filed May 28, 2002, effective June 6, 2002, expires Dec. 2, 2002.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is amending section (9) and adding section (10).

PURPOSE: The emergency amendment changes section (9) and adds section (10). This amendment will establish the Federal Reimbursement Allowance (FRA) Assessment for SFY 2002 at five and zero hundredths percent (5.00%) and SFY 2003 at five and fifty-two hundredths percent (5.52%).

EMERGENCY STATEMENT: The SFY 2002 revenue projection is expected to be about $750 million less than the original consensus revenue forecast. This forecast was arrived at in December 2000 and provides the basis for the SFY 2002 budget established by the legislature and signed by the Governor. For SFY 2003, the state is projecting general revenue will be $56 million less than actual net collections in SFY 2001. This does not take into account the impact of inflation. Assuming this projection is accurate, the state will have less money to operate than two years ago while it must fund mandatory items such as Medicaid caseload growth. The state fiscal situation presents an emergency in that it is necessary to preserve a compelling governmental interest requiring an early effective date because the emergency amendment makes adjustments to the Federal Reimbursement Allowance for SFY 2002 and establishes the Federal Reimbursement Allowance for SFY 2003 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on Medicaid payments in meeting those needs. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, it will cause significant cash flow shortages and financial strain on all hospitals which service more than 850,000 Medicaid recipients. This will, in turn, result in an adverse impact on the health and welfare of those in need of medical care and treatment. A proposed amendment, which covers the same material, was published in the June 3, 2002 ***Missouri Register****. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the* ***Missouri*** *and* ***United States Constitutions****. The Division of Medical Services believes this emergency amendment to be fair to all interested persons and parties under the circumstances. The emergency amendment was filed May 28, 2002, effective June 6, 2002, and expires December 2, 2002 .*

(9) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2002. The FRA assessment for State Fiscal Year (SFY) 2002 shall be determined at the rate of *[five and twenty]* **five and zero** hundredths percent *[(5.20%)]* **(5.00%)** of the hospital's *[net operating revenues and other operating revenues defined in paragraphs (1)(A)12., and 13., as determined from information reported in the hospital's 1998 base year cost report. The SFY 2002 FRA Assessment shall be prorated as an estimate of the SFY 2003 FRA Assessment until such time as the regulation establishing the SFY 2003 FRA Assessment is effective.]* **total operating revenue less tax revenue/other government appropriations plus nonoperating gains and losses as published by the Missouri Department of Health, State Center for Health Statistics in the Missouri Hospital Revenues 1995–2000 manual, which is incorporated by reference in this rule. The base financial data for 1998 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030, Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).**

(10) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2003. The FRA assessment for State Fiscal Year (SFY)

2003 shall be determined at the rate of five and fifty-two hundredths percent (5.52%) of the hospital's total operating revenue less tax revenue/other government appropriations plus nonoperating gains and losses as published by the Missouri Department of Health, State Center for Health Statistics in the Missouri Hospital Revenues 1995–2000 manual, which is incorporated by reference in this rule. The base financial data for 1999 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030, Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).

AUTHORITY: sections 208.201, 208.453 and 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept, 21, 1992, effective June 7, 1993. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed April 29, 2002. Emergency amendment filed May 28, 2002, effective June 6, 2002, expires Dec. 2, 2002.*