

Emergency Rule

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is amending section (1)(A)13.G., and adding section (5).

PURPOSE: This emergency amendment provides for the trend factor to be applied to the inpatient and outpatient adjusted net revenues to determine the inpatient and outpatient net revenues subject to the FRA assessment for SFY 2023. It also establishes the percentage of FRA that is taxed to Missouri hospitals for SFY 2023.

EMERGENCY STATEMENT: This emergency amendment informs Missouri hospitals what FRA rate they will be assessed starting on July 1, 2022. The Department of Social Services (DSS), MO HealthNet Division (MHD) finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. Missouri Partnership Plan (MPP) between the Centers for Medicare & Medicaid Services (CMS) and the DSS, which establishes a process whereby CMS and DSS determine the permissibility of the funding source used by Missouri to fund its share of the MO HealthNet program, is based on a state fiscal year. In order to determine the trends for State Fiscal Year (SFY) 2023, all relevant information from the necessary sources must be available to MHD. The division uses the best information available when it starts calculating the assessment so it uses the trend published in the Fourth Quarter Healthcare Cost Review publication which is generally not available until January. The division must also analyze hospital revenue data, which is not complete until near the end of the SFY, in conjunction with the trend and hospital FRA funded payments to determine the appropriate level of assessment. Without this information, the trends cannot be determined. Therefore, due to timing of the receipt of this information and the necessary July 1, 2022 effective date, an emergency regulation is necessary. The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The MHD believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 15, 2022, effective July 1, 2022, and expires February 23, 2023.

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. The Medicare/Medicaid Cost Report version 2552-96 (CMS 2552-96) shall be used for fiscal years ending on or after September 30, 1996. The Medicare/Medicaid Cost Report version 2552-10 (CMS 2552-10) shall be used for fiscal years beginning on and after May 1, 2010. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-) month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-) month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-) month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-) month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3 from CMS 2552-96, or Worksheet G-2, Line 28, Column 3 from CMS 2552-10, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6 from CMS 2552-96, or Worksheet C, Part I, Line 45, Column 6 from CMS 2552-10;

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1 from CMS 2552-96, or Worksheet G-2, Line 6, Column 1 from CMS 2552-10;

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.);

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2 from CMS 2552-96, or

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Worksheet G-2, Line 25, Column 2 from CMS 2552-10;

(V) “Ambulance Charges” from Worksheet C, Part I, Line 65, Column 7 from CMS 2552-96, or Worksheet C, Part I, Line 95, Column 7 from CMS 2552-10;

(VI) “Home Health Charges” from Worksheet G-2, Line 19, Column 2 from CMS 2552-96, or Worksheet G-2, Line 22, Column 2 from CMS 2552-10;

(VII) “Total Rural Health Clinic Charges” from Worksheet C, Part I, Column 7, Lines 63.50–63.59 from CMS 2552-96, or Worksheet C, Part I, Column 7, Line 88 and subsets from CMS 2552-10; and

(VIII) “Other Non-Hospital Component Charges” from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24 from CMS 2552-96, or Worksheet G-2, Lines 5, 7, 9, 21, 24, 26, and 27 from CMS 2552-10;

B. Obtain “Net Revenue” from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology;

C. “Adjusted Gross Total Charges” (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide “Net Revenue” by “Gross Total Charges”; and

(II) “Adjusted Gross Total Charges” will be multiplied by the result of part (1)(A)13.C.(I) to yield “Adjusted Net Revenue”;

D. Obtain “Gross Inpatient Charges” from Worksheet G-2, Line 25, Column 1 from CMS 2552-96, or Worksheet G-2, Line 28, Column 1 from CMS 2552-10, of the most recent cost report that is available for a hospital;

E. Obtain “Gross Outpatient Charges” from Worksheet G-2, Line 25, Column 2 from CMS 2552-96, or Worksheet G-2, Line 28, Column 2 from CMS 2552-10, of the most recent cost report that is available for a hospital;

F. Total “Adjusted Net Revenue” will be allocated between “Net Inpatient Revenue” and “Net Outpatient Revenue” as follows:

(I) “Gross Inpatient Charges” will be divided by “Gross Total Charges”;

(II) “Adjusted Net Revenue” will then be multiplied by the result to yield “Net Inpatient Revenue”; and

(III) The remainder will be allocated to “Net Outpatient Revenue”; and

G. The trend indices, if greater than 0%, will be determined based on the Health Care Costs index as published in *Healthcare Cost Review* by Institute of Health Systems (IHS), or equivalent publication, regardless of any changes in the name of the publication or publisher, for each State Fiscal Year (SFY). The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2020 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—2.9%

(II) SFY 2021 =

(a) Inpatient Adjusted Net Revenues—3.2%

(b) Outpatient Adjusted Net Revenues—0%

(III) SFY 2022 =

(a) Inpatient Adjusted Net Revenues—4.2%

(b) Outpatient Adjusted Net Revenues—0%

(IV) SFY 2023 =

(a) Inpatient Adjusted Net Revenues—3.8%

(b) Outpatient Adjusted Net Revenues—0%

(5) Beginning July 1, 2022, the FRA assessment shall be determined at a rate of five and forty hundredths percent (5.40%) of each hospital’s inpatient adjusted net revenues and outpatient

adjusted net revenues as set forth in paragraph (1)(A)13. The FRA assessment rate will be applied individually to the hospital’s inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital’s total FRA assessment is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.

AUTHORITY: sections 208.201, 208.453, 208.455, and 660.017, RSMo 2016. 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. Emergency amendment filed June 15, 2022, effective July 1, 2022, expired Feb. 23, 2023. An emergency amendment and a proposed amendment covering this same material will be published in the July 15, 2022, issue of the Missouri Register.

PUBLIC COST: For the 6 months of SFY 2023 that this emergency amendment is effective, this emergency amendment will result in FRA Assessment cost to public entities of approximately \$1.7 million.

PRIVATE COST: For the 6 months of SFY 2023 that this emergency amendment is effective, this emergency amendment will result in FRA Assessment cost to private entities of approximately \$10 million.

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FISCAL NOTE PUBLIC COST

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Emergency Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Other Government (Public) & State Hospitals - 38	Estimated cost for: SFY 2023 - \$1.7 million

III. WORKSHEET

Estimated Assessment at 5.40% for SFY 2023:

	No. of Facilities	Inpatient Revenues	Outpatient Revenues	Total
Public Facilities Revenues	38	\$834,001,448	\$934,487,226	\$1,768,488,674
FRA Assessment Rate		5.40%	5.40%	5.40%
Total Assessment without Trend		\$45,036,078	\$50,462,310	\$95,498,388
Revenue Trend for SFY 2022		3.80%	0.00%	
Total Revenues Trended		\$865,693,503	\$934,487,226	\$1,800,180,729
FRA Assessment Rate		5.40%	5.40%	5.40%
Total Assessment with Trend		\$46,747,449	\$50,462,310	\$97,209,759
Impact of Trend (Assessment with trend less Assessment without trend)				\$1,711,371

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IV. ASSUMPTIONS

This fiscal note reflects the total FRA Assessment of 5.40% for July 1, 2022 through June 30, 2023. The fiscal note is based on establishing the FRA Assessment rate as noted above and a trend of 3.8% on inpatient revenues and 0% on outpatient revenues beginning July 1, 2022. The FRA Assessment rate is levied upon Missouri hospitals' trended inpatient and outpatient net adjusted revenues in accordance with the Missouri Partnership Plan.

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FISCAL NOTE PRIVATE COST

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Emergency Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
100	Hospitals	Estimated cost for: SFY 2023 - \$10 million

III. WORKSHEET

Estimated Assessment at 5.40% for SFY 2023:

	No. of Facilities	Inpatient Revenues	Outpatient Revenues	Total
Private Facilities Revenues	100	\$4,891,805,760	\$4,882,574,169	\$9,774,379,929
FRA Assessment Rate		5.40%	5.40%	5.40%
Total Assessment without Trend		\$264,157,511	\$263,659,005	\$527,816,516
Revenue Trend for SFY 2022		3.80%	0.00%	
Total Revenues Trended		\$5,077,694,378	\$4,882,574,169	\$9,960,268,547
FRA Assessment Rate		5.40%	5.40%	5.40%
Total Assessment with Trend		\$274,195,496	\$263,659,005	\$537,854,502

Impact of Trend (Assessment with trend less Assessment without trend) \$10,037,986

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IV. ASSUMPTIONS

This fiscal note reflects the total FRA Assessment of 5.40% for July 1, 2022 through June 30, 2023. The fiscal note is based on establishing the FRA Assessment rate as noted above and a trend of 3.8% on inpatient revenues and 0% on outpatient revenues beginning July 1, 2022. The FRA Assessment rate is levied upon Missouri hospitals' trended inpatient and outpatient net adjusted revenues in accordance with the Missouri Partnership Plan.