

Title of Rule: Revisions to the Medicaid Assistance Rule Concerning the Hospital Expenditure Report Data Collection, 8.4000
Rule Number: MSB 23-10-04-A
Division / Contact / Phone: Special Financing / James Johnston / 303-866-3703

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The proposed rule adds a new section to Medicaid Assistance Rule Concerning Hospital Expenditure Report Data Collection, Section 8.4000. With recently enacted legislation, House Bill 23-1226: Hospital Transparency and Reporting Requirements, hospitals are required to submit quarterly financial data to the Colorado Department of Health Care Policy & Financing (HCPF) beginning with the last quarter of calendar year 2023. This rule will outline requirements and parameters for hospitals to submit quarterly financial information to HCPF, and in doing so, HCPF will reduce administrative burden for both hospitals and HCPF.

2. An emergency rule-making is imperatively necessary

to comply with state or federal law or federal regulation and/or
 for the preservation of public health, safety and welfare.

Explain:

House Bill 23-1226: Hospital Transparency and Reporting Requirements became law on August 6, 2023. With the legislation, HCPF is required to collect quarterly financial information from hospitals. To comply with this new law HCPF, is proposing rules regarding submission of this required information in an effective and timely manner.

3. Federal authority for the Rule, if any:

N/A

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2023);
Section 25.5-4-402.8(2)(b)(IV)(A)

Initial Review
Proposed Effective Date

12/31/23

Final Adoption
Emergency Adoption

12/08/23
DOCUMENT #12

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule requires general, acute care hospitals to submit quarterly financial reports to HCPF on a rolling basis. Citizens of Colorado will benefit from increased financial transparency of Colorado's hospitals, which may result in reduced costs of care for Coloradans.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Multiple studies including the Institute of Medicine (US) Roundtable on Evidence-Based Medicine's The Healthcare Imperative: Lowering Costs and Improving Outcomes (2010), Health care opinion leaders' view on the transparency of health care quality and price information in the United States (2007), and The effects of mandatory transparency in financial market design (2019) have documented that increased financial transparency in economic markets reduces costs for goods and services. Within economic theory, as a market becomes more transparent, more competition is observed, and as competition increases consumers have more buying power. Increased buying power for consumers leads to a reduction in prices from producers. This rule will benefit Coloradans purchasing health care and health care services.

Institute of Medicine (US) Roundtable on Evidence-Based Medicine; Yong PL, Saunders RS, Olsen LA, editors. The Healthcare Imperative: Lowering Costs and Improving Outcomes: Workshop Series Summary. Washington (DC): National Academies Press (US); 2010. 10, Transparency of Cost and Performance. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK53921/>

Shea K, Shih A, Davis K. Health care opinion leaders' views on the transparency of health care quality and price information in the United States. 2007

Asquith, P., Pathak, P., & Covert, T. (2019). The effects of mandatory transparency in financial market design -NBER. https://www.nber.org/system/files/working_papers/w19417/w19417.pdf

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3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

With the enactment of HB 23-1226, the General Assembly appropriated administrative resources to implement and administer the data collection and analysis. The proposed rule does not create a fiscal impact on the state's general fund.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

This proposed rule provides appropriate guidance so hospitals can submit accurate information in compliance with the new law. The proposed rules are needed to implement the legislation, create no additional costs, and there are no benefits of inaction.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed rule provides necessary guidance for hospitals to comply with the new law. The proposed rule reduces the administrative burden for both HCPF and hospitals by providing that hospitals can submit information that is already produced internally for executives and boards of directors as an alternative to completing a separate document.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

Since the legislation requires all Colorado general, acute care hospitals to provide quarterly financial information, and this proposed rule standardizes how information is to be provided in the least burdensome manner, there are no alternative methods for implementing the legislation.

1 8.4000

2 PURPOSE: To supply data for the Hospital Expenditure-Financial Transparency Report, which is an annually
3 prepared written report detailing uncompensated hospital costs and the different categories of expenditures,
4 by major payer group, made by hospitals in the state.

5 8.4001.A DEFINITIONS

6 1. "Certified Financial Statements" means financial statements, along with accompanying notes, that
7 have been prepared in accordance with Generally Accepted Accounting Principles and that have
8 been audited by an independent certified public accountant(s) in accordance with generally accepted
9 auditing standards.

10 2. "Critical Access Hospital" means a hospital qualified as a critical access hospital under 42 U.S.C. §
11 1395i-4(c)(2) and certified as a critical access hospital by the Colorado Department of Public Health
12 and Environment.

13 3. "DATABANK Program" means the Colorado Hospital Association program that collects hospital
14 utilization and financial data.

15 4. "Enterprise Board" means the Colorado Healthcare Affordability and Sustainability Enterprise Board
16 described at § 25.5-4-402.4(7), C.R.S..

17 5. "General Hospital" means a hospital licensed as a general hospital by the Colorado Department of
18 Public Health and Environment.

19 6. "Health System" is a larger corporation or an organizational structure that owns, contains, or operates
20 more than one hospital.

21 7. "Long Term Care Hospital" means a General Hospital that is certified as a long-term care hospital by
22 the Colorado Department of Public Health and Environment.

23 8. "Medicare Cost Report" means the Medicare hospital cost report, form CMS 2552-96 or CMS 2552-
24 10, or any successor form created by CMS, and the annual required submission of worksheets and
25 schedules by Medicare certified providers used for Medicare reimbursement.

26 9. "Psychiatric Hospital" means a hospital licensed as a psychiatric hospital by the Colorado
27 Department of Public Health and Environment.

28 10. "Quarterly Financial Statements" means internal unaudited financial statements including an income
29 statement and balance sheet prepared in accordance with Generally Accepted Accounting
30 Principles.

31 ~~10.11.~~ "Rehabilitation Hospital" means an inpatient rehabilitation facility.

32 8.4002 RESPONSIBILITIES OF THE DEPARTMENT AND HOSPITALS**33 8.4002.A STATEMENT SUBMISSION**

34 1. For the purposes of compiling historic data for the Hospital Expenditure-Financial Transparency
35 Report, all General Hospitals and Critical Access Hospitals shall submit Certified Financial
36 Statements and Medicare Cost Reports for all fiscal periods ending after January 1, 2012 through the
37 most recently available fiscal period.

38 a. Hospitals shall submit within fifteen (15) days of the effective date of this rule.

39 2. For the purposes of ongoing data compilation for the Hospital Expenditure-Financial Transparency
40 Report, all General Hospitals and Critical Access hospitals shall submit their Certified Financial
41 Statements and Medicare Cost Reports.

- 1 a. Hospitals shall submit a Certified Financial Statement within 120 days after the end of its
2 fiscal year, unless the Department grants an extension in writing in advance of that date.
- 3 b. Hospitals shall submit annual Medicare Cost Reports to the Department within thirty (30)
4 days after submitting them to CMS.
- 5 3. Psychiatric Hospitals, Long Term Care Hospitals and Rehabilitation Hospitals are exempted from
6 submitting Certified Financial Statements and Medicare Cost Reports.
- 7 4. For a hospital that operates within a Health System or other corporate structure, and is normally
8 included in the Health System or other corporate structure's Certified Financial Statements
- 9 a. The hospital may submit the Health System or other corporate structure's Certified Financial
10 Statements if the statements separately identify the financial information for each licensed
11 hospital operating in the state including:
 - 12 i. A statement of operations.
 - 13 ii. A balance sheet.
 - 14 iii. If available, a statement of changes in net assets (or equity).
 - 15 iv. If available, a statement of cash flows.
- 16 b. For hospitals in which the consolidated Certified Financial Statements do not separately
17 identify the financial information for each licensed hospital operating in the state, then the
18 hospital shall submit the financial statements that were submitted with its Medicare Cost
19 Report shall submit a reconciliation of the consolidated financial statement and hospital-
20 specific revenue and expenses reported on the Medicare Cost Report pursuant to the federal
21 centers for Medicare and Medicaid services provider reimbursement manual form 339.
- 22 5. If total revenues and total expenses on the submitted financial statements differ from the Medicare
23 Cost Report, the hospital shall submit a reconciliation.
- 24 6. A hospital may choose to submit a written explanation of operating, investing, or financing decisions
25 that impact the interpretation of the Certified Financial Statements or Medicare Cost Report.
- 26 7. A hospital may choose to submit a written explanation detailing changes in reporting methodology
27 between fiscal periods that would impact the interpretation of the statements and what period may be
28 affected. Examples of reporting methodologies that could change include:
 - 29 a. Measurements of financial assets and liabilities.
 - 30 b. Recording of retirement benefit plans.
 - 31 c. Recording of income tax expense.
 - 32 d. Rates of depreciation.
- 33 8. The Department is not responsible for the review and authentication of the Certified Financial
34 Statements and the Medicare Cost Report. The authentication of the submitted Certified Financial
35 Statements and the Medicare Cost Report is the responsibility of the hospital or Health System.
- 36 9. Submissions shall be certified by the hospital's Chief Executive Officer, Chief Financial Officer, or an
37 individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated
38 authority to sign for the Chief Executive Officer or Chief Financial Officer so that the Chief Executive
39 Officer or Chief Financial Officer is ultimately responsible for the certification.

- 1 1. For the purposes of compiling historic data for the Hospital ~~Expenditure~~ Financial Transparency
2 Report, hospitals shall report utilization and financial information for fiscal periods ending after
3 January 1, 2012 through the most recently available fiscal period if such information is available. The
4 Department shall make available or distribute a data reporting template to all hospitals.
- 5 a. The Department shall include instructions for completing the data reporting template,
6 including definitions and descriptions of each reported data field, which will include at a
7 minimum those items required by C.R.S. § 25.5-4-402.8(2)(b)(III).
- 8 b. The Department may allow hospitals to submit data submitted to the DATABANK Program
9 as an alternative to the Department's reporting template. The Department shall instruct
10 hospitals what is an acceptable DATABANK Program submission.
- 11 c. Hospitals shall return the completed reporting template to the Department within fifteen (15)
12 days after receiving the request or on the stated due date, whichever is later.
- 13 2. For the purposes of ongoing data compilation for the Hospital Expenditure Report, hospitals shall
14 report utilization and financial information on the hospital for the requested fiscal year. The
15 Department shall make available or distribute a data reporting template to all hospitals.
- 16 a. The Department shall inform hospitals of the fiscal period of the request.
- 17 b. The Department shall include instructions for completing the data reporting template,
18 including definitions and descriptions of each reported data field, which will include at a
19 minimum those items required by C.R.S. § 25.5-4-402.8(2)(b)(III).
- 20 c. Hospitals shall return the completed reporting template to the Department within thirty (30)
21 days after receiving the request or on the stated due date, whichever is later.
- 22
- 23 3. Hospitals shall submit a roll-forward schedule detailing the changes in property, plant, and equipment
24 balances from the beginning to the end of the reporting period.
- 25 a. Changes shall be appropriately categorized as either purchases, other acquisitions, sales,
26 disposals, depreciation expense or other changes. Significant amounts categorized as other
27 changes should be separately described. The roll-forward schedule should provide details of
28 changes by property, plant, and equipment category including, but not limited to land,
29 buildings, buildings – accumulated depreciation, building improvements, building
30 improvements – accumulated depreciation, leasehold improvements – leasehold
31 improvements – accumulated depreciation, equipment, equipment – accumulated
32 depreciation, other and other – accumulated depreciation. The beginning and ending
33 balances on the roll-forward schedule should agree to the respective balance sheet.
- 34 4. Psychiatric Hospitals, Long Term Care Hospitals and Rehabilitation Hospitals are exempted from the
35 reporting submission.
- 36 5. The Department shall determine the reasonableness of the data submitted by comparing it to the
37 submitted Certified Financial Statement.
- 38 6. Submissions shall be certified by the hospital's Chief Executive Officer, Chief Financial Officer, or an
39 individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated
40 authority to sign for the Chief Executive Officer or Chief Financial Officer so that the Chief Executive
41 Officer or Chief Financial Officer is ultimately responsible for the certification.

42 **8.4002.C DEPARTMENT REPORTING & TRANSPARENCY**

- 43 1. The Department is responsible for the compilation of the hospital submissions.

- 1 2. The Department shall consult with the Enterprise Board on the structure and format of the Hospital
2 Expenditure Report at the Enterprise Board meetings.
- 3 3. The Department shall share the hospital's data in the Hospital Expenditure-Financial Transparency
4 Report and a copy of the report with the hospital a minimum of fifteen (15) days before the report is
5 publicly available or issued to the Enterprise Board.
- 6 4. After the collection and review of the data submission, a machine-readable format of the hospital
7 data shall be made available to the statewide hospital association at no cost to the association.

8 8.4003 RESPONSIBILITIES OF THE DEPARTMENT AND HOSPITALS FOR QUARTERLY REPORTING 9 REQUIREMENTS

10 8.4003.A QUARTERLY STATEMENT SUBMISSIONS

- 11 1. All General Hospitals and Critical Access Hospitals shall submit Quarterly Financial Statements
12 within ninety (90) days of the end of the calendar quarter.
- 13 2. Psychiatric Hospitals, Long Term Care Hospitals and Rehabilitation Hospitals are exempted from
14 submitting Quarterly Financial Statements.
- 15 3. For a hospital that operates within a Health System or other corporate structure, and is normally
16 included in the Health System or other corporate structure's Quarterly Financial Statements, the
17 hospital may submit the Health System or other corporate structure's Quarterly Financial Statements.
- 18 4. A hospital may choose to submit a written explanation detailing changes in reporting methodology
19 between fiscal periods that would impact the interpretation of the statements and what period may be
20 affected. Examples of reporting methodologies that could change include:
 - 21 a. Measurements of financial assets and liabilities.
 - 22 b. Recording of retirement benefit plans.
 - 23 c. Recording of income tax expense.
 - 24 d. Rates of depreciation.
- 25 5. The Department is not responsible for the review and authentication of the Quarterly Financial
26 Statements. The authentication of the submitted Quarterly Financial Statements is the responsibility
27 of the hospital or Health System.
- 28 6. Submissions shall be certified by the hospital's Chief Executive Officer, Chief Financial Officer, or an
29 individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated
30 authority to sign for the Chief Executive Officer or Chief Financial Officer.

31 8.4003.B QUARTERLY REPORTING SUBMISSION

- 32 1. For the purposes of ongoing quarterly data compilation for the Hospital Financial Transparency
33 Report, hospitals shall report Quarterly Financial Statements for the requested quarter. The
34 Department shall make available or distribute a data reporting template to all hospitals.
 - 35 a. The Department shall inform hospitals of the time period of the request.
 - 36 b. The Department shall include instructions for completing the data reporting template, including
37 definitions and descriptions of each reported data field, which will include at a minimum those items
38 required by C.R.S. § 25.5-4-402.8(2)(b)(IV)(A).
 - 39 c. Hospitals shall return the completed reporting template to the Department within ninety (90) days
40 after receiving the request or on the stated due date, whichever is later.

1 8.4003.C DEPARTMENT QUARTERLY REPORTING & TRANSPARENCY

2 1. The Department is responsible for the compilation of the hospital Quarterly Financial Statement
3 submissions.

4 2. The Department shall provide any analysis, report, or presentation based on the Quarterly Financial
5 Statements to each hospital at least fifteen (15) days prior to the public release of any analysis,
6 report, or presentation. The Department shall clearly state any analysis, report, or presentation based
7 on Quarterly Financial Statements is unaudited when applicable.

8 3. After the collection and review of the Quarterly Financial Statement submissions, a machine-
9 readable format of the hospital data shall be made available to the statewide hospital association at
10 no cost to the association.

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