DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
233 North Michigan Ave., Suite 600
Chicago, IL 60601

Financial Management Group

November 8, 2023

Kimberly Sullivan
Medicaid Director State of Louisiana
Department of Health
628 N 4th Street
P.O. Box 91030
Baton Rouge, LA 70821-9030

RE: Official Request for Additional Information (RAI) State Plan Amendment (SPA) LA-23-0033

Dear Medicaid Director Kimberly Sullivan:

The Centers for Medicare & Medicaid Services (CMS) has completed our initial review of the proposed amendment submitted under transmittal number (TN) 23-0033. This state plan amendment (SPA) has a proposed effective date of July 1, 2023. The purpose of this SPA is to revise the provisions governing Outpatient Hospital Services to establish quarterly supplemental payments for certain public non-state small rural hospitals located in administrative region 3 that render qualifying services during the quarter.

Section 1902(a) of the Social Security Act (the Act) requires that states have a state plan for medical assistance that meets certain federal requirements that set out a framework for the state program. Implementing regulations at 42 CFR 430.10 require that the state plan be a comprehensive written statement containing "all information necessary for CMS to determine whether the plan can be approved as a basis for Federal Financial Participation (FFP) in the state program".

To be comprehensive, payment methodologies should be understandable, clear, and unambiguous. In addition, because the plan is the basis for FFP, it is important that the plan language provide an auditable basis for determining whether payment is appropriate.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a) and 1923 of the Act and the regulations at 42 CFR 447. Before we can continue processing this amendment, we need additional or clarifying information.

Upper Payment Limit (UPL)

1. West Carroll Memorial Hospital is identified as private in the 2023 Louisiana outpatient hospital UPL submitted to MACFin. However, according to informal RAI responses the qualifying criteria is for non-state government hospitals.

   > State's I-RAI response: This proposed SPA will qualify a small rural hospital, Franklin Foundation, for Medicaid outpatient supplemental payments using only the available Medicaid outpatient fee-for-service UPL cap. This will have no fiscal impact as these payments are from our aggregate outpatient fee-for-service upper payment limit cap, which is a finite funding source. Funding available for other public non-state hospitals would be offset by these payments. Fee-for service costs and payments are separately identified from the costs and payments of managed care services using claims payment data reports that are used to prepare cost reports and to calculate the UPL demonstrations. No managed care costs, payments, or claims information is included in the Medicaid fee-for-service UPL demonstrations or estimated supplemental payments".

   According to the state, supplemental payments projected to be paid for SFY 2024 service dates will be matched by intergovernmental transfers from public entities totaling $4,500,000 to provider #1733725, West Carroll Medical Center. The intergovernmental transfer of $1,198,575 will be from the West Carroll Parish Police Jury.

   Please clarify if West Carroll Memorial Hospital (or Medical Center) was mislabeled as a private entity, instead of non-state government own and explained if the hospital was re-classified due to changes in state law, hospital bankruptcy etc.

INTERGOVERNMENTAL TRANSFERS (IGT)

Thank you for providing assurance and confirmation that the payment methods are comprehensive and only recognize Medicaid allowable services costs in accordance with 42 CFR 433.51(b) and SMDL 14-0004. However, because 4.19-B pages for outpatient services define a non-state hospital as "a hospital which is owned or operated by a private entity", CMS needs additional details to determine whether the dollar value of the contracts between private and public entities had any fair market valuation. There can be no transfer of value, or a return or reduction of payments reflected in these agreements. Additionally, whether the State is a party to the financial arrangement or not, the State is responsible to ensure that the funding is appropriate. The State would be responsible for refunding any FFP if CMS finds the funding source inappropriate.

2. What is the source of all funds transferred? Are funds from tax assessments, special appropriations from the State to the county/city or another source? Please provide the county/city legislation authorizing the IGTs.

3. Does the state agree to provide certification from the transferring entities that the IGTs are voluntary?

4. Do the cities require voter approval to use local tax dollars to fund the non-Federal share of the supplemental payments?

5. Do the cities currently levy taxes or have access to sufficient state or local tax revenue to support the IGTs necessary as the non-Federal share of the supplemental payments to the hospital?

ADDITIONAL

6. CMS recommends the specific language be added to the SPA Pages: "No payment under this section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity."

CMS is requesting this additional/clarifying information under the provisions of section 1915(f) of the Act (added by PL 97-35). This has the effect of stopping the 90-day clock for CMS to take action on the material, which would have expired on November 13, 2023. A new 90-day clock will not begin until we receive your response to this request.

In accordance with our guidelines to all State Medicaid directors dated January 2, 2001, and subsequently reiterated in the August 16, 2018 Center for Medicaid and CHIP Services Informational Bulletin, if a response to a formal request for additional information from CMS is not received from the state within 90 days of issuance, CMS will initiate disapproval of the SPA action. In addition, because this amendment was submitted after January 2, 2001, and is effective after January 1, 2001, please be advised that we will defer federal financial participation (FFP) for state payments made in accordance with this amendment until it is approved. Upon approval, FFP will be available for the period beginning with the effective date of the SPA through the date of approval.

We ask that you respond to this RAI via the OneMAC portal at http://onemac.cms.gov. and email a copy of your response to Monica Neiman at monica.neiman@cms.hhs.gov

If you have any questions, please contact Monica Neiman via email at monica.neiman@cms.hhs.gov

Sincerely,

Todd McMillion

Todd McMillion

Director
Division of Reimbursement Review