NOTICE OF WITHDRAWAL OF PROPOSED RULE

STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR
DIVISION OF MEDICAID

Miss. Division of Medicaid
c/o Bob M. Dent, Staff Officer
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Date Rule Proposed: June 29, 2006

Name of proposed rule being withdrawn:
AP 2006-35. Disproportionate Share Hospital Payments (DHS)/Upper Payment Limit (UPL)

Explanation of the purpose of the proposed rule and the reason(s) for proposing the rule:
To increase the DSH/UPL payments to one percent (1%).

Reason(s) for withdrawing the proposed rule:
The Division wanted to clarify the rule under a new and separate filing notice.

Date Proposed Rule Withdrawn: June 30, 2006

Signature and Title of Person Submitting Rule for Filing

The Division will increase the gross revenue assessment for hospitals for the continuation of the Disproportionate Share Hospital Payments (DSH) / Upper Payment Limit (UPL) to one percent (1%) of gross revenue to be collected monthly effective September 1, 2006.

Economic Impact Statement:

(a) **Description of the need for and the benefits which will likely accrue as the result of the proposed action:** Public and private hospitals participate in the DSH/UPL program administered through the Division of Medicaid in order to provide additional compensation to those hospitals for providing services to low income patients. The total DSH/UPL payment consists of federal and state funds. The state must provide a state match in order to draw down the additional federal share. The program has a tremendous overall impact to participating hospitals by distributing approximately $360 million among these facilities. By contrast, the overall impact to hospitals is $90 million which is collected by the State in order to draw down the state match.

(b) **Estimate of the cost to the agency, and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues:** The estimated cost of this program for the State of Mississippi is an annual total of $360 million dollars of which approximately $90 million represents the state's matching contribution and approximately $270 million represents the federal contribution to the program. The estimated amount of cost for paperwork associated with this rule is negligible considering the overall benefit to the delivery of health services. This new rule will generate the state matching funds needed for the program and will only affect local revenues to the extent that a publicly owned facility will also be required to participate in the assessment.

(c) **An estimate of the cost or economic benefit to all persons directly affected by the proposed action:** The estimated overall economic benefit for public and private hospitals is a total distribution of approximately $360 million. The estimated overall economic cost for public and private hospitals is $90 million.

(d) **Impact on small business:** N/A

(e) **A comparison of the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule:** Without a funding source to generate the state share of the program, the program will be unable to draw down the federal matching share. The result will be a reduction in or total loss of funding for the program.

(f) **A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where**

reasonable alternative methods exist which are not precluded by law: The previous method as applied was found to be impermissible by the Centers for Medicare and Medicaid Services (CMS), the federal agency which is responsible for oversight of the program. Other alternative funding methods were considered and it was determined that these methods conflicted with federal and/or state law or were not viable alternatives due to administrative burdens and concerns raised by CMS.

(g) **A description of reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency and a statement of reasons for rejecting those alternatives in favor of the proposed rule:** The method of "certified public expenditure" or CPEs was reviewed and found to be an administrative burden and indications from CMS were not positive. Another alternative method reviewed was named the "Katrina proposal" and was not a viable alternative for several reasons including but not limited to the following: Katrina relief funds are a one time source of funding and not a long term solution; use of any federal funds to draw down federal funds is illegal; the Katrina relief for the 100% FMAP is specifically for services rendered to individuals in the affected counties designated for individual assistance. No other reasonable methods were identified.

(h) **Detailed statement of the data and methodology using in making estimates:** The Division used "Hospital Gross Patient Revenue Charges" from cost reports provided by the hospitals and multiplied this number by 1% to obtain estimated total gross revenue assessments.