

Medicaid DSH Third-Party Payer 97th Percentile Exception List

Technical Specifications

Overview

The following document provides an overview of the methodology used to determine hospitals that qualify for an exception to the methodology change for calculating Medicaid shortfall, as required by Section 203 of the Consolidated Appropriations Act of 2021 (CAA 2021). The CAA 2021 provides an exception for hospitals that, for the hospital's most recent cost reporting period, are in the 97th percentile or above of all hospitals with respect to either (1) the number of Medicare Part A-Supplemental Security Income (SSI) days or (2) the percentage of Medicare Part A-SSI days to total inpatient days. Detailed requirements for calculating which hospitals qualify for an exception are specified in the Medicaid Program; Disproportionate Share Hospital Third-Party Payer Rule (CMS-2445-F).

The updated definition of Medicaid shortfall and the 97th percentile exception policy are effective starting with each state's first State Plan Rate Year (SPRY) beginning on or after October 1, 2021.¹ The Centers for Medicare & Medicaid (CMS) publishes an Exception List on an annual basis. The first three lists were published retroactively on April 5, 2024.

- **October 1, 2021 List:** SPRYs starting between October 1, 2021 and September 30, 2022.
- **October 1, 2022 List:** SPRYs starting between October 1, 2022 and September 30, 2023.
- **October 1, 2023 List:** SPRYs starting between October 1, 2023 and September 30, 2024.

The October 1, 2024 List (applicable for SPRYs starting between October 1, 2024 and September 30, 2025) will be published in advance of October 1, 2024. All subsequent lists will follow this cadence and be published in advance of October 1 of each year.

Exception List Development Steps

To develop the annual Exception List there are four unique steps as described in Figure 1.

Figure 1: 97th Percentile Calculation Steps

Calculation Steps			
Step #1	Step #2	Step #3	Step #4
Develop the Universe of Hospitals and Cost Reports for Inclusion (Universe of Hospitals)	Determine the Total Number of Inpatient Days for Selected Cost Reports	Determine the Total Number of Medicare Part A-SSI Days	Calculation of the 97th Percentile Cutoff and Determination of Qualifying Hospitals
Details			
Identify all eligible cost reports in HCRIS using processing dates on or before the March 31st snapshot date in advance of the SPRY impacted. Then identify the most recent cost report for each hospital dating back to no earlier than September 30th, 3 years prior.	Use HCRIS to identify the total number of inpatient days for each hospital's most recent cost report period. Include psych and rehab sub-providers.	Use MEDPAR to identify the total number of Medicare-SSI days for the cost-report period identified for each hospital. Include psych and rehab sub-providers.	Calculate the 97th percentile threshold for (1) total number of Medicare-SSI Days (2) Medicare-SSI days as a proportion of total inpatient days. Determine which hospitals are at or above the threshold and qualify for an exception.

¹ For example, if a State's SPRY begins July 1, then the policy change would be effective starting with the SPRY beginning July 1, 2022.

There are two primary data sources for the calculation steps:

- Hospital cost reports (Form CMS-2552-10) available through the Healthcare Cost Report Information System (HCRIS). Data from HCRIS for the three retrospective lists were extracted on September 12, 2023. For the October 1, 2024 Exception List, data from HCRIS were extracted on April 3, 2024. Prospectively, data from HCRIS will be extracted shortly after March 31st for each respective period. Please see each year's Exception List for the actual HCRIS extract date.
- Medicare Provider Analysis and Review (MEDPAR) database of Medicare claims data, which already has matched SSI eligibility data. Data from MEDPAR for the three retrospective lists were extracted on October 4, 2023. For the October 1, 2024 Exception List, data from MEDPAR were extracted on May 9, 2024. Prospectively, data from MEDPAR will be extracted shortly after the HCRIS data extract for each respective period. Please see each year's Exception List for the actual MEDPAR extract date.

Step 1: Develop the Universe of Hospitals and Cost Reports for Inclusion

- A. All hospitals with at least one cost report record (form CMS-2552-10) that meets the following requirements are eligible for inclusion in the universe. No adjustments are made to account for closed or merged hospitals, acquired hospitals, or a hospital that acquired another hospital.
- To be eligible, a cost report record must have been processed into HCRIS (as determined by the processing date) on or before March 31st in advance of the SPRY that begins on or after October 1st.
 - To be eligible, a cost report record must have a Fiscal Year (FY) End Date on or after September 30th, 3-years prior to the SPRY impacted.²
- B. In some cases, a hospital may have multiple eligible cost report records. A cost report record represents a cost report of a given cost report status, FY Begin, and FY End Date. For example, a hospital's as-submitted cost report and amended cost report for the same cost reporting period are two separate cost report records. If multiple eligible cost report records satisfy the criteria in step A for a single hospital, the most recent cost report record, as determined by the FY End Date, is selected and used for subsequent steps in the Exception List calculation.
- If multiple cost report records for a single hospital exist with the same FY End Date, the most recent cost report is selected based on its report status code in the order of 1, 5, 2 or 3, 4³ – ordered from earliest to most recent. If multiple reports are available with a status code of 2 or 3, a tie-breaking logic based on the processing date is applied.

² For example, for the Exception List applicable to SPRYs beginning between October 1, 2021 and September 30, 2022 only cost report records with a FY End Date on or after September 30, 2018 are eligible for inclusion.

³ Status Code Crosswalk: 1=Submitted, 2=Settled without Audit, 3=Settled with Audit, 4=Reopened, 5=Amended.

Step 2: Determine the Total Number of Inpatient Days for Selected Cost Reports

- A. The total number of inpatient days are determined using data from HCRIS and are defined as:

$$\text{Total Inpatient Days} = \\ [Main\ Hospital\ Inpatient\ Days] + [Rehabilitation\ Sub\ Provider\ Inpatient\ Days] + \\ [Psychiatric\ Sub\ Provider\ Inpatient\ Days]$$

No adjustments are made to account for cost report periods of varying lengths. In addition, the number of inpatient days associated with a cost report does not impact whether the cost report is considered for selection. Cost reports associated with zero inpatient days, even those without any entry on Worksheet S-3 are eligible for inclusion.

- B. The number of inpatient days for the main hospital (in step 2.A) are defined as:

$$\text{Main Hospital Inpatient Days} = \\ [Adult\ and\ Pediatric\ Hospital\ Days\ (Worksheet\ S-3,\ Row\ 1,\ Column\ 8)] + \\ [Intensive\ Care\ Unit\ Days\ (Worksheet\ S-3,\ Row\ 8,\ Column\ 8)] + \\ [Coronary\ Care\ Unit\ Days\ (Worksheet\ S-3,\ Row\ 9,\ Column\ 8)] + \\ [Burn\ Intensive\ Care\ Unit\ Days\ (Worksheet\ S-3,\ Row\ 10,\ Column\ 8)] + \\ [Surgical\ Intensive\ Care\ Unit\ Days\ (Worksheet\ S-3,\ Row\ 11,\ Column\ 8)] + \\ [Other\ Special\ Care\ Unit\ Days\ (Worksheet\ S-3,\ Row\ 12,\ Column\ 8)] + \\ [Nursery\ Days\ (Worksheet\ S-3,\ Row\ 13,\ Column\ 8)] + \\ [Labor\ \&\ Deliver\ Days\ (Worksheet\ S-3,\ Row\ 32,\ Column\ 8)]^4$$

The number of inpatient days includes all classes of patients.

- C. For hospitals with a rehabilitation and/or psychiatric sub provider number identified on the cost report, the total number of inpatient days for the corresponding sub provider is determined based on the number of days reported in the cost report.

- *Rehabilitation Sub Provider Inpatient Days: Worksheet S-3, Row 17, Column 8*
- *Psychiatric Sub Provider Inpatient Days: Worksheet S-3, Row 16, Column 8*

Step 3: Determine the Total Number of Medicare Part A-SSI Days

- A. The total number of Medicare Part A-SSI days (“Medicare-SSI Days”) are determined using data from MEDPAR and are defined as,

$$\text{Total Medicare-SSI Days} = \\ [Main\ Hospital\ Inpatient\ Days\ for\ Patients\ with\ Part\ A\ and\ SSI] + \\ [Rehabilitation\ Sub\ Provider\ Inpatient\ Days\ for\ Patients\ with\ Part\ A\ and\ SSI] + \\ [Psychiatric\ Sub\ Provider\ Inpatient\ Days\ for\ Patients\ with\ Part\ A\ and\ SSI]$$

The number of Medicare-SSI days for the main hospital and sub-providers are determined using the variable SSI NEW DAY from MEDPAR. The variable uses an updated CMS approach to using SSI eligibility data from the Social Security Administration (SSA), and querying claims data for the applicable Medicare inpatient days for SSI eligible individuals. The variable is inclusive of both covered and non-covered Medicare Part A days. Medicare Part C days are also included in the SSI NEW DAY variable. The use of this variable is

⁴ Swing Bed Days SNF and Swing Bed NF Days are not included in the total.

consistent with the Medicare-SSI days used as the numerator⁵ in the Medicare-SSI days ratio calculation for Medicare DSH payment purposes, with the following exceptions:

- The data is pulled for the Medicaid DSH 97th Percentile Exception specifically based on particular hospital provider numbers (including applicable rehabilitation and psychiatric sub provider numbers)
- The data is pulled for the Medicaid DSH 97th Percentile Exception for a specific cost reporting period.

Swing bed days are excluded from the SSI NEW DAY variable. Labor and delivery days for a hospital are included when such days were billed to Medicare Part A.

Note: In some cases, the MEDPAR dataset would return SSI NEW DAY with zero value, indicating none of the hospital's billed Medicare Part A days for the cost reporting period were matched as SSI eligible days. In a small number of cases no data was available in MEDPAR for a specific hospital provider number and cost reporting period, indicating there were no Medicare Part A claims found. In these cases, a null value is included for Total Main Hospital Medicare-SSI Days, Rehabilitation Sub Provider Medicare-SSI, and/or Psychiatric Sub Provider Medicare-SSI Days. If a hospital has null Medicare-SSI Days across all three fields, then Total Medicare-SSI Days would be made equal to zero.

Step 4: Calculation of the 97th Percentile Cutoff and Determination of Qualifying Hospitals

- A. **Qualification Based on Total Medicare-SSI Days:** Based on the total number of Medicare-SSI days (3.A) compute the 97th percentile threshold using the PERCENTILE.INC function in Excel. This function establishes a threshold of acceptance for who scores at or above a certain percentile. To calculate the 97th percentile cutoff using Excel, the formula would look as follows:

$$= \text{PERCENTILE.INC}(\text{array of Total Medicare-SSI Days for All Hospitals on List}, 0.97)$$

The 97th percentile threshold would be rounded to the nearest whole number, with x.5 or higher rounded up, and less than x.5 rounded down. Any hospital with Medicare-SSI days for its most recent cost reporting period greater than or equal to the 97th percentile threshold would qualify for an exception.

- B. **Qualification Based on Total Medicare-SSI Days as a Percentage of Total Inpatient Days:** Calculate the Percentage of Medicare-SSI Days as a Percentage of Total Inpatient Days (3.A/2.A).

$$\text{Percent Medicare-SSI Days of Total Inpatient Days} = \frac{[\text{Total Medicare-SSI Days}]}{[\text{Total Inpatient Days}]}$$

Each hospital's percent value is rounded to the fourth decimal place (0.xxxx, alternatively stated as xx.xx percent). Values of 0.xxxx5 or higher would be rounded up, and less than 0.xxxx5 would be rounded down. If a hospital's total inpatient days' value is zero, then the percent value will be made zero. No hospital's calculated percent value can exceed 100.00%.

⁵ Note: The denominator for the Medicaid DSH calculation for the Percent Medicare-SSI Days qualifying method is total inpatient days. The denominator for the Medicare DSH DPP calculation is total Medicare Part A days.

The 97th percentile threshold is computed using the same approach referenced in Step 4.A:

= **PERCENTILE.INC(array of Percent Medicare-SSI Days for All Hospitals on List, 0.97)**

The threshold value is rounded to the fourth decimal place (0.xxxx, alternatively stated as xx.xx percent). Values of 0.xxxx5 or higher would be rounded up, and less than 0.xxxx5 would be rounded down. Any hospital with a Medicare-SSI Days to Total Inpatient Days percentage for its most recent cost reporting period greater than or equal to the 97th percentile threshold would qualify for an exception.

Medicaid DSH Third-Party Payer 97th Percentile Exception List: Data Dictionary

Each annual Exception List Dataset contains three tabs:

- **Comprehensive Data Tab:** Dataset for all hospitals in the universe, which includes hospital information, sub-provider information, selected cost report details, inpatient day and Medicare-SSI day counts, the 97th percentile thresholds, whether the hospital qualifies for an exception, and each hospital's actual percentile for both qualification methods.
- **Medicare-SSI Days Data Tab:** For all hospitals in the universe, includes selected data fields from "Comprehensive" tab showing each hospital's Total Medicare-SSI days, its percentile ranking, and whether it qualifies for the 97th percentile exception based on the days qualification method.
- **Percent Medicare-SSI Days of Inpatient Days Data Tab:** For all hospitals in the universe, includes selected data fields from the "Comprehensive" tab showing each hospital's Percent Medicare-SSI Days, its percentile ranking, and whether it qualifies for the 97th percentile exception based on the percentage qualification method.

The following data fields are included on the "Comprehensive" tab of each of the three retrospective Exception List datasets.

	Column	Field	Notes
Summary	A	Hospital CCN	Provider CMS Certification number (CCN)
	B	Hospital Name	Source Data: Form CMS-2552-10, S-2, Row 3, Column 1
	C	Qualify for Exception Based on Days and/or Percentage	Calculation: <ul style="list-style-type: none"> • Yes = For the Exception List time period, the hospital qualifies for an exception, based on Medicare-SSI days, the percentage of Medicare-SSI days to total inpatient days, or both • No = The hospital does not qualify for an exception for the Exception List time period.
Hospital Information	D	State	Source Data: Form CMS-2552-10, S-2, Row 2, Column 2
	E	Rehab Sub-Provider CCN	Source Data: Form CMS-2552-10, S-2, Row 5, Column 2 <ul style="list-style-type: none"> • Null = no Rehab sub-provider
	F	Psychiatric Sub-Provider CCN	Source Data: Form CMS-2552-10, S-2, Row 4, Column 2 <ul style="list-style-type: none"> • Null = no Psych sub-provider

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	Column	Field	Notes
Selected Cost Report Information	G	Cost Report Record Number	Source Data: Generated in the HCRIS database <ul style="list-style-type: none"> Selection of cost report based on methodology detailed in Rule 2445-F and the technical specifications.
	H	Cost Report Fiscal Year Begin Date	Source Data: Form CMS-2552-10
	I	Cost Report Fiscal Year End Date	Source Data: Form CMS-2552-10
	J	Cost Report Status Code	Source Data: Form CMS-2552-10
	K	Cost Report Status Description	Calculation based on Cost Report Status Code: <ul style="list-style-type: none"> 1 = Submitted 2 = Settled without audit 3 = Settled with audit 4 = Reopened 5 = Amended
	L	HCRIS Cost Report Processing Date	Source Data: Generated in the HCRIS database <ul style="list-style-type: none"> Corresponds to the date when the cost report record was entered in the HCRIS system.
Inpatient Days and Medicare-SSI Days	M	Main Hospital Inpatient Days	Source Data: <ul style="list-style-type: none"> Form CMS-2552-10, S-3, Rows 14 and 32, Column 8 Excludes Rows 5 and 6, Column 8 See Technical Specifications for more detail
	N	Rehab Sub-Provider Inpatient Days	Source Data: Form CMS-2552-10, S-3, Row 17, Column 8 <ul style="list-style-type: none"> See Technical Specifications for more detail
	O	Psych Sub-Provider Inpatient Days	Source Data: Form CMS-2552-10, S-3, Row 16, Column 8 <ul style="list-style-type: none"> See Technical Specifications for more detail
	P	Total Inpatient Days	Calculation <ul style="list-style-type: none"> Main Hospital Inpatient Days + Rehab Sub-Provider Inpatient Days + Psych Sub Provider Inpatient Days
	Q	Main Hospital Medicare-SSI Days	Source Data: MEDPAR, SSINEWDAYS <ul style="list-style-type: none"> Pulled for the same time period as the cost report (FYB to FYE) Matching done by CCN

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	Column	Field	Notes
Inpatient Days and Medicare-SSI Days (cont.)	R	Rehab Sub Provider Medicare-SSI Days	Source Data: MEDPAR, SSINEWDAYS <ul style="list-style-type: none"> Pulled for the same time period as the cost report (FYB to FYE) Matching done by Sub-Provider CCN
	S	Psych Sub Provider Medicare-SSI Days	Source Data: MEDPAR, SSINEWDAYS <ul style="list-style-type: none"> Pulled for the same time period as the cost report (FYB to FYE) Matching done by Sub Provider CCN
	T	Total Medicare-SSI Days	Calculation <ul style="list-style-type: none"> Main Hospital Medicare-SSI Days + Rehab Sub-Provider Medicare-SSI Days + Psych Sub Provider Medicare-SSI Days
	U	Percent Medicare-SSI Days	Calculation <ul style="list-style-type: none"> (Medicare-SSI Days / Total Inpatient Days) * 100
Qualification Data	V	97th Percentile Threshold # Medicare-SSI Days	Calculation <ul style="list-style-type: none"> See Technical Specifications for more detail
	W	Qualify # Medicare-SSI Days	Calculation <ul style="list-style-type: none"> Yes = Total Medicare-SSI Days >= 97th Percentile Cutoff Total Medicare-SSI No = Total Medicare-SSI Days < 97th Percentile Cutoff Total Medicare-SSI
	X	97th Percentile Threshold Percent Medicare-SSI Days of Inpatient Days	Calculation <ul style="list-style-type: none"> See Technical Specifications for more detail
	Y	Qualify Percent Medicare-SSI Days of Inpatient Days	Calculation <ul style="list-style-type: none"> Yes = Total Percent Medicare-SSI Days >= 97th Percentile Cutoff Percent Medicare-SSI Days No = Total Percent Medicare-SSI Days < 97th Percentile Cutoff Percent Medicare-SSI Days

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	Column	Field	Notes
Percentiles	Z	Percentile # Medicare-SSI Days	Calculation <ul style="list-style-type: none"> Percentile for each provider based on Medicare-SSI Days The threshold for each percentile is calculated using the Percentile.INC function in Excel
	AA	Percentile Percent Medicare-SSI Days of Inpatient Days	Calculation <ul style="list-style-type: none"> Percentile for each provider based on Percent Medicare-SSI Days The threshold for each percentile is calculated using the Percentile.INC function in Excel