January 20, 2023

Kamia Rathore
State Demonstrations Group
Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
7500 Security Boulevard
Baltimore, Maryland 21244

RE: Notice of Change to Distribution of Uncompensated Care Payments

Dear Ms. Rathore,

Pursuant to the terms and conditions of the TennCare Demonstration, Tennessee is providing official notification to CMS of our intent to make changes to the distribution of uncompensated care payments authorized under the TennCare Demonstration.

Tennessee's revised distribution methodology for eligible providers is attached for your reference. This change is contingent on the appropriation of state funds by the Tennessee General Assembly and will become effective upon enactment of such appropriation, except in no case will this change become effective less than 60 days from the date of this notification.

Tennessee is currently conducting a public notice of this planned change. Tennessee will not claim federal match for uncompensated care funds until this public notice process has been completed. Once the public notice process is completed, the revised distribution methodology will be posted to the state's website in accordance with the demonstration's STCs.

If you have any questions about this notice or if you need additional information, please contact Aaron Butler at 615.507.6448, or aaron.c.butler@tn.gov.

Sincerely,

Stephen Smith
Director, Division of TennCare

Attachment

# Attachment: Updated Distribution Methodology for Uncompensated Care Payments

## Distribution Methodology for Uncompensated Care Payments

The TennCare III Demonstration authorizes two funds for uncompensated care payments.

The supplemental pool framework includes two pools with defined caps:

- A "Virtual DSH" pool not to exceed $508,936,029 total computable annually.
- An Uncompensated Care Fund for Charity Care (the Charity Care pool) not to exceed $589,886,294 total computable annually.

<u>Virtual DSH Pool</u>
The State makes the following payments within the Virtual DSH Pool in each SFY:

- Critical Access Hospital Sub-pool – $15 million
- Statutory DSH Method Sub-pool – approximately $81 million (fixed annual federal allocation of $53.1 million, total varies with FMAP)
- Children's Safety Net Sub-pool - $28.6 million
- Other Essential Acute Sub-pool - $60.7 million
- Safety Net Sub-pool - $36.3 million
- Psychiatric Facilities Sub-pool - $2,173,144
- Public Hospital Costs Sub-Pool – up to $240 million

Some hospitals may be eligible to receive supplemental payments to be distributed from more than one sub-pool. In such cases, as payment from one sub-pool is calculated, the amount of that payment will be taken into account as additional sequential sub-pool payments are calculated to ensure that duplication and overpayment do not occur. A hospital cannot receive payments in excess of its uncompensated care costs.

### Critical Access Hospital Sub-pool –$15 million

*<u>Qualifications</u>* – To qualify for payment as a Critical Access Hospital, a hospital must meet the following criteria:

- The hospital is an acute care hospital located and licensed in the state of Tennessee,
- The hospital has been designated a Critical Access Hospital by the Tennessee Department of Health,
- The hospital contracts with a managed care organization participating in TennCare,
- The hospital contracts with TennCare Select,
- The hospital provides accurate and timely admission, discharge, and transfer data to TennCare, and
- The hospital participates in the State's payment reform initiatives, including episodes of care, as appropriate.

*<u>Reimbursement</u>* – TennCare will pay Critical Access Hospitals under the following terms.

***Inpatient Services*** – Payment for uncompensated TennCare inpatient services costs that are furnished by Critical Access Hospitals will be made quarterly with interim per diem rates with year-end cost settlements. Using the as-filed Medicare Cost Reports for the most recent year available, interim per diem rates for TennCare inpatient services will be determined with consideration of payments for TennCare services to hospitals by managed care organizations and any special payments to hospitals.

## Distribution Methodology for Uncompensated Care Payments

The inpatient interim per diem rate is calculated as follows:

- Values for Inpatient Routine and Ancillary Service Medicaid costs and total Medicaid inpatient days are obtained from Worksheet D-1 of the most recent as-filed Medicare Cost Report (lines 39, 48 and 9 respectively). From this information, a Medicaid cost per diem can be calculated.
- The “Interim MCO Payment” for the CAH is determined by the payments for inpatient services (excluding any TennCare Quarterly Interim Settlement Reimbursements) as reported on Worksheet E-3 (line 41).
- These payments are divided by the number of reported Medicaid days for the quarter to determine the per diem amount the CAH received as payment from the TennCare managed care organization.
- The inpatient interim per diem rate for the CAH is the difference between the total allowed Medicaid cost per diem and the per diem amount paid to the hospital by the MCO.

Inpatient Critical Access Hospital services will not include more than 15 acute inpatient beds. An exception to the 15 bed requirement is made for swing bed hospitals. Critical Access Hospitals are allowed to have up to 25 inpatient beds that can be used interchangeably for acute or Skilled Nursing Facility (SNF) level of care, provided that not more than 15 beds are used at any one time for acute care.

***Outpatient Services*** – Payment for uncompensated TennCare outpatient services costs that are furnished by Critical Access Hospitals will be made quarterly based on a percentage of charges with year-end cost settlements.

Using the as filed Medicare Cost Reports for the most recent year available, interim rates for TennCare outpatient services will be determined as a percentage of charges, with consideration for payments of TennCare services to hospitals by managed care organizations and any special payments to hospitals.

The interim outpatient rate will be calculated as follows:

- First, total Medicaid Outpatient costs and total Medicaid Outpatient charges are referenced from the MCR from Worksheet E-3; (line 2 and line 12, respectively).
- The MCO outpatient payments to the CAH (excluding any TennCare Interim Quarterly Payments) are divided by the CAH’s total Outpatient Medicaid Charges to derive an MCO Payment to Charge ratio.
- This MCO Payment to Charge Ratio is then compared to the CAH’s calculated overall Outpatient Cost to Charge Ratio. The difference between the Outpatient CCR and the MCO Payment to Charge ratio equals the Interim Supplemental Reimbursement Rate for the CAH for Outpatient Services.

***Total Payment*** – Each hospital’s total payment will be calculated as follows:

1. Each hospital’s interim inpatient per diem is multiplied by their Medicaid inpatient days.
2. Each hospital’s interim outpatient rate (percentage) is multiplied by their Medicaid outpatient charges.
3. The products of steps 1 and 2 are added together to derive an amount for each hospital.

Cost Settlements – Cost settlements are determined from provider submitted Medicare cost reports that include the title XIX schedules based on 100 percent (100%) of TennCare reasonable costs. The term "reasonable costs" is defined for this purpose as total reimbursable costs under Medicare principles of cost reimbursement for Critical Access Hospitals.

New Designations of Critical Access Hospitals – For new hospitals that qualify after July 1, 2018, the state will begin reimbursement at the rates established by this part on the first day of the calendar month after notification to the Bureau of TennCare by the hospital of its Critical Access Hospital designation. At that time, interim rates will be established according to this part and the designation will be confirmed with the Tennessee Department of Health.

Audit Trail and Audit Requirements – Each CAH is required to maintain adequate financial and statistical records which are accurate and in sufficient detail to substantiate the cost data reported. These records must be retained for a period of not less than 5 years from the date of the submission of the Joint Annual Report and the related Medicare Cost Report, and the provider is required to make such records available upon demand to representatives of the Bureau of TennCare or the United States Department of Health and Human Services. All hospital cost reports and Joint Annual Reports are subject to audit at any time by Federal and state auditors, including the Comptroller of the Treasury and the Bureau of TennCare, or their designated representative.

**Statutory DSH Method Sub-pool – $53,100,000 divided by FMAP (approximately $81 million)**

In addition to federal requirements for DSH participation, hospitals in Tennessee must meet the following eligibility criteria:

- The hospital must have at least one of the following: (i) at least 13.5% or more of their total adjusted days covered by TennCare; or (ii) 9.5% or more of the total adjusted days are covered by TennCare and the number of adjusted days for the hospital is higher than the average number of TennCare Adjusted Days; or (iii) be a children's hospital defined as a free standing hospital that serves primarily children under 18 years of age and is identified to the public as a children's hospital with a separate emergency department staffed and equipped to provide emergency services to pediatric patients.
- The hospital must have unreimbursed Medicaid cost, unreimbursed self-pay, and/or charity care cost.
- The hospital contracts with a managed care organization participating in TennCare.
- The hospital contracts with TennCare Select.
- The hospital provides accurate and timely admission, discharge, and transfer data to TennCare.
- The hospital participates in the State's payment reform initiatives, including episodes of care, as appropriate.

This sub-pool is the only sub-pool within the Virtual DSH pool for which all participating hospitals are required to meet the DSH requirements in Section 1923 of the Social Security Act including the requirement to provide OB services. Participation in all other Virtual DSH sub- pools is not contingent on meeting the requirement to provide OB services.

In Tennessee, multiple facilities may be included on a single license and the facilities that share a license are all included on a single Medicare cost report. Hospitals that share a Medicare cost report are identified separately in the State's Joint Annual Report data and the JAR data for those facilities

would be grouped together so that the DSH audit values would align correctly. The State proposes to distribute the funds within the Sub-pool using the methodology outlined in the Distribution Formula Update included in Appendix A.

**Children's Safety Net Sub-pool -$28.6 million**

Hospitals eligible to participate in the Children's Safety Net Sub-pool must:

- be licensed by the Tennessee Department of Health as an independent or satellite facility with a primary function to serve children under the age of 21 in Tennessee and file a separate Joint Annual Report,
- be a contracted provider with TennCare Select and, where available, at least one Managed Care Organization in the TennCare program,
- have either of the following: (i) at least 13.5% or more of their total adjusted days covered by TennCare; or (ii) 9.5% or more of the total adjusted days are covered by TennCare and the number of adjusted days for the hospital is higher than the average number of TennCare Adjusted Days,
- have unreimbursed Medicaid cost and/or charity care cost.,
- provide accurate and timely admission, discharge, and transfer data to TennCare, and
- participate in the State's payment reform initiatives, including episodes of care, as appropriate.

Data for use in distribution of the sub-pool will come from the most recent reviewed Joint Annual Report (JAR).

Funds within the Sub-pool will be distributed using the methodology outlined in the Distribution Formula Update included in Appendix A.

**Other Essential Acute Sub-pool - $60.7 million**

Hospitals eligible to participate in the Other Essential Acute Sub-pool must:

- be an acute care hospital licensed by the Tennessee Department of Health to operate in the State of Tennessee that is not eligible for the Critical Access Hospital Sub-pool, the Children's Safety Net sub-pool or the Safety Net sub- pool,
- be a contracted provider with TennCare Select and, where available, at least one Managed Care Organization in the TennCare program,
- have at least one of the following: (i) at least 13.5% or more of their total adjusted days covered by TennCare; or (ii) 9.5% or more of the total adjusted days are covered by TennCare and the number of adjusted days for the hospital is higher than the average number of TennCare Adjusted Days; or (iii) be a children's hospital defined as a free standing hospital that serves primarily children under 18 years of age and is identified to the public as a children's hospital with a separate emergency department staffed and equipped to provide emergency services to pediatric patients,
- have unreimbursed Medicaid cost, unreimbursed self-pay, and/or charity care cost,
- provide accurate and timely admission, discharge, and transfer data to TennCare, and
- participate in the State's payment reform initiatives, including episodes of care, as appropriate.

This group of hospitals will be divided into three Tiers based on the size of their total expenses from the most recent reviewed Joint Annual Report. Total expenses are obtained from the Joint Annual Report, Schedule E (Financial Data), Section B, Lines 1 (f) and 2 (i) summed on Line 3. Line 1

expenses are the various payroll expenses for MDs, residents, trainees, RN and LPNs, and all other personnel. Line 2 expenses are the nonpayroll expenses for benefits, professional fees, contracted staff, depreciation, interest, energy, and all other expenses (supplies, nonoperating expenses, purchased services, etc.). The hospitals will be grouped into the appropriate tiers based on their reported total expenses.

The Tiers are:

Tier 1: Hospitals under $30 million total expenses

Tier 2: Hospitals at $30 million total expenses up to $100 million operating expenses

Tier 3: Hospitals at or above $100 million total expenses

Based on the percentage of the total operating expenses for all eligible hospitals in each Tier, the maximum amount of the total $60.7 million pool available to be distributed in each Tier will be:

Tier 1 - $3.35 million

Tier 2 - $13.35 million

Tier 3 - $44 million

Total - $60.7 million

Funds within each Tier will be distributed based on points for Medicaid utilization, charity care costs, and/or children's hospital status using the methodology outlined in the Distribution Formula Update included in Appendix A.

**Safety Net Sub-pool - $36.3 million**

Hospitals eligible to participate in the Safety Net Sub-pool must:

- be licensed to operate in the State of Tennessee
- be both a Level 1 Trauma Center and a Regional Perinatal Center, or any metropolitan public hospital that is contractually staffed and operated by a safety net hospital for the purpose of providing clinical education and access to care for the medically underserved,
- be a contracted provider with TennCare Select and, where available, at least one Managed Care Organization in the TennCare program,
- have either of the following: (i) at least 13.5% or more of their total adjusted days covered by TennCare; or (ii) 9.5% or more of the total adjusted days are covered by TennCare and the number of adjusted days for the hospital is higher than the average number of TennCare Adjusted Days,
- have unreimbursed Medicaid cost, unreimbursed self-pay, and/or charity care cost,
- provide accurate and timely admission, discharge, and transfer data to TennCare, and
- participate in the State's payment reform initiatives, including episodes of care, as appropriate.

Data for use in distribution of the sub-pool will come from the most recent reviewed Joint Annual Report (JAR).

Safety Net Sub-pool is divided into two Tiers:

Local Government Owned Safety Net Hospital Tier - $24 million

Other Safety Net Hospital Tier - $12.3 million

Funds within each Tier will be distributed based on points for Medicaid utilization, charity care costs, and/or children's hospital status using the methodology outlined in the Distribution Formula Update included in Appendix A.

**Psychiatric Facilities Sub-pool - $2,173,144**

Hospitals eligible to participate in the Psychiatric Facilities Sub-Pool must:

- be licensed by the Tennessee Department of Mental Health for the provision of psychiatric hospital services in Tennessee, excluding the state mental health institutes,
- be a contracted provider with TennCare Select and, where available, at least one Managed Care Organization in the TennCare program,
- have unreimbursed Medicaid cost, unreimbursed self-pay, and/or charity care cost,
- provide accurate and timely admission, discharge, and transfer data to TennCare, and
- participate in the State's payment reform initiatives, including episodes of care, as appropriate.

Funds within the sub-pool will be distributed based on points for Medicaid utilization, and/or charity care costs, using the methodology outlined in the Distribution Formula Update included in Appendix A.

**Public Hospital Costs Sub-Pool – up to $240 million**

Hospitals eligible to participate in the Public Hospital Costs Sub-Pool must:

- be licensed to operate in the State of Tennessee,
- be a government operated hospital.
- have unreimbursed Medicaid cost, unreimbursed self-pay, and/or charity care cost.

This sub-pool will be calculated per the CPE Protocol by independent auditors. This calculation will be completed at the level of individual eligible hospitals.

<u>Charity Care Pool</u>

The State makes the following payments within the Charity Care Pool in each SFY:

- Public Hospital Sub-pool – $100 million
- Safety Net Sub-pool - $23 million
- Research and Rehabilitation Facilities Sub-Pool- $3.0 million
- Meharry Medical College Sub-pool - $10 million
- Uncompensated Charity and Self-Pay Sub Pool - $116.8 million

Some hospitals may be eligible to receive supplemental payments to be distributed from more than one sub-pool, including sub-pools from the Virtual DSH pool. In such cases, as payment from one sub-pool is calculated, the amount of that payment will be taken into account as additional sequential sub-

pool payments are calculated to ensure that duplication and overpayment do not occur. A hospital may not receive payments in excess of its uncompensated care costs.

**Public Hospital Sub-pool – $100 million**

The amount paid each year to each hospital in this sub-pool must equal the hospital’s charity care cost as identified on the most recent reviewed Joint Annual Report. In the event total charity care cost for these three hospitals exceeds $100 million in a given year the Sub-pool will be distributed proportionally. Each individual hospital’s percent of the total charity care cost for the three hospitals will be multiplied by the total sub-pool amount of $100 million to determine each hospital’s share of the sub-pool. The maximum amount any hospital may receive from this sub- pool per year will be $50 million. These sub-pool payments may be made to the following hospitals: Regional Medical Center at Memphis, Metro Nashville General Hospital, and Erlanger Medical Center at Chattanooga.

**Other Safety Net Sub-pool - $23 million**

The criteria used to establish the “Other Safety Net Hospital Tier” as part of the Virtual DSH Safety Net Sub-pool will be used to identify the hospitals to be included in this Sub-pool. Funds in this Sub-pool will be distributed as laid out in the Distribution Formula Update included in Appendix A. Data for use in distribution of the sub-pool will come from the most recent reviewed Joint Annual Report (JAR).The amount paid each year to each hospital in this sub-pool must equal the hospital’s unreimbursed self-pay cost as identified on the most recent reviewed Joint Annual Report. In the event total unreimbursed self-pay cost for these three hospitals exceeds $23 million in a given year the sub-pool will be distributed proportionally. Each individual hospital’s percent of the total unreimbursed self-pay cost for the three hospitals will be multiplied by the total sub-pool amount of $23 million to determine each hospital’s share of the sub-pool.

**Research and Rehabilitation Facilities Sub-pool - $3 million**

Hospitals eligible to participate in the Research and Rehabilitation Facilities Sub-Pool must:

- be licensed to operate in the State of Tennessee
- be a rehabilitation facility, long term acute care facility reimbursed by Medicare under the IRF or LTAC methodology, or a pediatric research hospital
- provide accurate and timely admission, discharge, and transfer data to TennCare if the facility is a rehabilitation facility or long term acute care facility,
- be a contracted provider with at least one Managed Care Organization in the TennCare program, and
- have unreimbursed Medicaid cost, unreimbursed self-pay, and/or charity care cost.

**Meharry Medical College Sub-pool - $10 million**

Payments may be made based on the uncompensated uninsured charity care costs of the two Medicaid clinics operated by the Meharry Medical College for TennCare covered services provided to uninsured charity care patients. The Meharry Medical College Sub-pool payments are limited to the uncompensated costs of the care as determined by an independent audit each year and subject to the review and approval by the CMS staff. Before paying the annual pool amount to the providers, the state will provide CMS with a copy of the annual independent audit report.

## Distribution Methodology for Uncompensated Care Payments

**Uncompensated Charity and Self-Pay Sub Pool - up to $453,886,286**

This Sub-Pool is distributed to cover costs associated with uncompensated care provided to the uninsured through charity care programs or self-pay patients.

Hospitals eligible to participate in the Uncompensated Charity and Self-Pay Sub Pool must:

- be a hospital licensed to operate in the State of Tennessee that is eligible to receive a payment from any sub-pool in the Virtual DSH or Charity Care pool
- not have received an allotment from the public hospital sub-pool of the charity care pool
- not be a children's research facility
- be a contracted provider with TennCare Select and, where available, at least one Managed Care Organization in the TennCare program
- have remaining uncompensated charity and/or self-pay costs after all other supplemental pool payments have been distributed, including the Public Hospital Costs Sub Pool
- provide accurate and timely admission, discharge, and transfer data to TennCare, and
- participate in the State's payment reform initiatives, including episodes of care, as appropriate.

The Uncompensated Charity and Self-Pay Sub-pool will be divided into three tiers. The first two tiers consist of:

Public Hospitals: $14,430,000

Non-Public Hospitals: $102,415,886

The State distributes $116,845,886 for the first two tiers of the Sub-pool based on each eligible facility's proportional remaining unreimbursed charity and self-pay costs. The amount paid each year to each hospital in this sub-pool must equal the hospital's remaining unreimbursed charity care cost plus unreimbursed self-pay cost as identified on the most recent reviewed Joint Annual Report after those costs and unreimbursed TennCare costs have been reduced by the amount of all Virtual DSH and all other charity care pool payments for the same year. In the event the remaining total charity care and unreimbursed self-pay costs for all eligible hospitals exceeds the amount allocated to the appropriate tier of the sub-pool, the payments will be distributed proportionally. Each individual hospital's percent of the total charity care and unreimbursed self- pay cost for the eligible hospitals in each tier will be multiplied by the total tier amount to determine each hospital's share of the sub-pool. The maximum amount any hospital may receive from each tier of this sub-pool per year will be 10 percent of the total amount of the tier.

The third tier will be a one-time specific charity care payment that will be contingent on legislative appropriations.

One-Time, Non-recurring SFY2023 Payment: up to $337,040,400

Hospitals eligible to participate in the one-time SFY2023 third tier payment must:

- be a hospital licensed to operate in the State of Tennessee
- be a contracted provider with TennCare Select and, where available, at least one Managed Care Organization in the TennCare program
- have remaining uncompensated charity and/or self-pay costs
- provide accurate and timely admission, discharge, and transfer data to TennCare, and

- participate in the State's payment reform initiatives, including episodes of care, as appropriate.

The State will distribute the funds for the third tier of the Sub-pool based on each eligible facility's proportional remaining unreimbursed charity and self-pay costs, as reported on the latest Joint Annual Report. If a hospital does not have any self-pay recorded or is reported as a negative, only the charity cost will be used to determine the proportion. The Uncompensated Charity and Self-Pay sub pool will continue to take all payments into consideration, including this time-specific payment.

**Additional eligibility requirements for one-time third tier payment:**

**Children's Sub-pool - $25,000,000**

Hospitals eligible to participate in the Children's Sub-pool must be licensed by the Tennessee Department of Health as an independent or satellite facility with a primary function to serve children under the age of 21 in Tennessee, have an emergency department staffed and equipped to provide emergency services to pediatric patients and file a separate Joint Annual Report.

**Critical Access Hospital (CAH) Sub-pool - $4,000,000**

Hospitals eligible to participate in the CAH Sub-pool must be designated a Critical Access Hospital by the Tennessee Department of Health.

**Rehabilitation Facilities Sub-pool - $745,530**

Hospitals eligible to participate in the Rehabilitation Sub-pool must be a rehabilitation facility or long-term acute care facility reimbursed by Medicare under the IRF or LTAC methodology.

**Psychiatric Facilities Sub-pool - $4,000,000**

Hospitals eligible to participate in the Psychiatric Facilities Sub-pool must be licensed by the Tennessee Department of Mental Health for the provision of psychiatric hospital services in Tennessee, excluding the state mental health institutes.

**Other Acute Sub-pool - $303,294,870**

Hospitals eligible to participate in the Other-Acute Sub-pool must be an acute care hospital or recognized as a children's research facility licensed by the Tennessee Department of Health to operate in the State of Tennessee that is not eligible for the Critical Access Hospital Sub-pool or the Children's Sub-pool.

**Distribution Methodology for Uncompensated Care Payments**

# Appendix A

## Proposed Distribution Formula Update

Data Sources

The State uses charity care cost data, unreimbursed self-pay cost data, and Medicaid utilization data taken from the Joint Annual Report (JAR), an annual report the State has required from hospitals for many years and a longstanding data source for our supplemental pool distribution calculations. The JAR is required by Tennessee law (T.C.A. 68-11-310) to be filed by each hospital 150 days following the close of their fiscal year. For those with a calendar year end the due date would be May 31. The state is then required by the same law to create a compilation of the data that is to be available to the public no later than November 30 of the year following the year of the data collection. The data that would be used in the calculation would be the most current final data that had been compiled by the state at the beginning of the fiscal year for which payments are to be made. For example, for the SFY 2018-19 payments, the 2016 JAR data is the most current final data file.

To determine Medicaid volume, the Joint Annual Report patient days and inpatient and outpatient charges will be used to determine adjusted days for TennCare and the total facility. Patient days are adjusted to account for inpatient and outpatient volume in a single measure. The formula is: reported inpatient days multiplied by the ratio of inpatient charges plus outpatient charges to inpatient charges. For the total facility adjusted days, the charges and inpatient days are as reported for the total facility; for TennCare adjusted days, the days and charges in the formula are specific to TennCare.

Charity care costs will be determined by multiplying the unreimbursed charity care charges reported on the JAR by the facility cost to charge ratio, which is calculated as total expenses divided by total charges for each facility. Unlike the prior methodology that defined charity care to include both charity care and bad debt, only unreimbursed charity care cost is included in the new proposed methodology.

Unreimbursed self-pay costs will be determined by multiplying the self-pay charges reported on the JAR by the facility cost to charge ratio, which is calculated as total expenses divided by total charges for each facility, to determine self-pay costs. The reported revenue received from self-pay patients is then subtracted from the self-pay cost to determine unreimbursed self-pay costs. The instructions on the JAR for this data element are: Include charges for all patients who clearly paid the hospital for services only because they were uninsured or insurance did not cover the services provided. Do not include co-pay or deductibles for insured patients.

For payments made from the Virtual DSH Fund, payments will be based on points assigned for TennCare volume, charity care costs and/or children's hospital status based on the most recent reviewed Joint Annual Report as described below. For payments made from the Charity Care Fund, payments will be based on either a hospital's proportionate share of charity care costs and unreimbursed self-pay costs.

Where points are used in the determination of the pool, the allocation will be based on an assignment of points for:

- TennCare adjusted days expressed as a percent of total adjusted patient days;
- Charity care costs expressed as a percent of total expenses; and/or
- Children's hospital status.

## Distribution Methodology for Uncompensated Care Payments

Calculation of Points

TennCare volume is defined as the percent of a hospital's total adjusted days that are covered by TennCare.

Points are assigned based on that percent as follows:

- 1 point – greater than or equal to 9.5% but less than 13.5% and the actual number of TennCare adjusted days must be greater than the average for all acute care hospitals, excluding the state mental health institutes, critical access, pediatric and safety net providers;
- 1 point – greater than or equal to 13.5% and less than or equal to 24.5%;
- 2 points – greater than 24.5% and less than or equal to 30.5%;
- 3 points – greater that 30.5% and less than or equal to 49.5%;
- 4 points – greater than 49.5%.

(2) Charity Care – Charity Care costs as a percent of total expenses

- 0 points - less than 0.5%
- 1 point - greater than or equal to 0.5% and less than 4.5%
- 2 points - greater than or equal to 4.5% and less than 10.0%
- 3 points - greater than or equal to 10.0%

(3) Children's hospitals

- 1 point for being a free standing hospital that serves primarily children under 18 years of age and is identified to the public as a children's hospital with a separate emergency department staffed and equipped to provide emergency services to pediatric patients.

(4) Calculation of Amounts of Sub-pool and Tier Payments for Hospitals –These points will then be used to adjust the General Hospital Rate (GHR) based on pre-TennCare hospital reimbursement rates. The GHR rate included all inpatient costs (operating, capital, direct education) but excluded add-ons (indirect education, MDSA, return on equity). The GHR for Safety Net Hospitals is $908.52. The GHR for all other hospitals is $674.11. The points for each qualifying hospital will be summed and then used to determine the percent of the GHR that is used to calculate the initial payment amount for each hospital.

- 7 or more points – 100% of GHR
- 6 points – 80% of GHR
- 5 points – 70% of GHR
- 4 points – 60% of GHR
- 3 points – 50% of GHR
- 2 points – 40% of GHR
- 1 point – 30% of GHR

For each Sub-pool or Tier, the appropriately weighted GHR for each qualifying hospital is multiplied by the number of adjusted TennCare days provided by the hospital. The TennCare adjusted days are calculated as the number of TennCare inpatient days multiplied by the ratio of total TennCare charges to TennCare inpatient charges - this adjusts the number of days up to reflect outpatient utilization. These amounts are summed for all of the hospitals that qualify for the Sub-pool or Tier. Each hospital's

initially calculated amount will then be adjusted to the total in the Sub-pool or Tier. This is done by first calculating each individual hospital's proportion of the total for all hospitals of the initial calculated amounts and then multiplying that proportion times the total amount available in the pool.

Distribution of Charity Care Pools

The Sub-Pools in the Charity care pool will be distributed based on each facility's unreimbursed charity care cost and/or unreimbursed self-pay cost. Each sub-pool provides every qualifying hospital a proportionate share of the sub-pool based on the hospital's proportionate share of the aggregate charity care costs and/or unreimbursed self-pay cost for the qualifying hospitals in the sub-pool. The Uncompensated Charity and Self-Pay Sub Pool will be the final pool amount determined and the unreimbursed costs will be reduced by the amount of all of the other sub-pools before determining a hospital's share of that sub-pool.

The calculation for that sub-pool is as follows:

- Calculate each facility's Virtual DSH and Charity Fund payments from other pools (rolled up to the cost report level)
- Using latest JAR data, calculate each facility's unreimbursed TennCare costs, charity costs and unreimbursed self-pay costs.
- Offset the total unreimbursed costs by the projected Virtual DSH and other Charity Pool payments, including CPE, by first exhausting the remaining TennCare costs, then charity costs, and finally self-pay costs, to calculate the remaining unreimbursed charity and self-pay costs.
- Apply each facility's proportional amount of the remaining unreimbursed costs to the total pool amount for the appropriate tier to calculate each facility's payment.
- If any hospital's calculated amount from this pool represents more than 10% of the total pool, cap the hospital's amount at 10% and recalculate the proportions for the remaining hospitals.

**DEPARTMENT OF HEALTH & HUMAN SERVICES**
**Centers for Medicare & Medicaid Services**
**7500 Security Boulevard, Mail Stop S2-25-26**
**Baltimore, Maryland 21244-1850**

**State Demonstrations Group**

March 08, 2023

Stephen Smith
Director of TennCare
Tennessee Department of Finance and Administration
310 Great Circle Road
Nashville, TN 37243

Dear Mr. Smith,

On January 20, 2023, the Centers for Medicare & Medicaid Services (CMS) received notice from the state of Tennessee ("the state") of the intent to make updates to the uncompensated care payments distribution methodology authorized under the Tennessee section 1115(a) Medicaid demonstration entitled "TennCare III" (Project Number 11-W-00369/4), which was approved on January 8, 2021 under the authority of section 1115(a) of the Social Security Act (the Act).

In accordance with the special terms and conditions (STCs) of the TennCare III demonstration, the state must develop and maintain an updated distribution methodology for eligible providers that will continue to participate in the state's uncompensated care payment program. The state must notify CMS of any changes to the methodology and post a draft methodology for public comment at least 60 days prior to the effective date of the proposed methodology. CMS is issuing this letter acknowledging the receipt of the notice of proposed changes on January 20, 2023. As required by the STCs of the demonstration, the earliest such changes may take effect and federal matching for incurred compensated care costs can be claimed is March 20, 2023.

Please find enclosed the notice the state provided to CMS on January 20, 2023. If you have any questions, please do not hesitate to contact your project officer, Ms. Kamia Rathore. Ms. Rathore can be reached at kamia.rathore@cms.hhs.gov.

Sincerely,

Heather V. Ross
Acting Director
Division of Eligibility and Coverage Demonstrations

Enclosure
cc: Tandra Hodges, State Monitoring Lead, Medicaid and CHIP Operations Group