



Extension of Changes to the Low-Volume Hospital Payment Adjustment & the Medicare Dependent Hospital Program

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Related CR Title: Extensions of Certain Temporary Changes to the Low-Volume Hospital Payment Adjustment and the Medicare Dependent Hospital (MDH) Program under the Inpatient Prospective Payment System (IPPS) Provided by the Further Continuing Appropriations and Extensions Act, 2023, and the Consolidated Appropriations Act, 2023

Affected Providers

- Low-volume hospitals
- Medicare-dependent hospitals (MDHs)

Action Needed

Make sure you know about:

- Criteria and payment adjustments for FY 2023
- Extension of the MDH program

Background

Sections 4101 and 4102 of the [Consolidated Appropriations Act, 2023](#) (CAA 2023) (Public Law 117-328) extends certain temporary increases to the low-volume hospital payment adjustment and the MDH program through September 30, 2024.

1. Low-Volume Hospitals – Criteria and Payment Adjustments for FY 2023

The regulations implementing the low-volume hospital payment adjustment policy are at [42 CFR 412.101](#). The Bipartisan Budget Act of 2018 modified the definition of a low-volume hospital and the methodology for calculating the payment adjustment for low-volume hospitals under Section 1886(d)(12) of the [Social Security Act](#) for FYs 2019 - 2022. Under these changes, to qualify a hospital must have less than 3,800 total discharges and be located more than 15 road miles from the nearest IPPS hospital, and the applicable percentage increase is based on a continuous, linear sliding scale ranging from an additional 25% payment adjustment for low-volume hospitals with 500 or fewer discharges to a 0% additional payment for low-volume

hospitals with more than 3,800 discharges. These specific amendments were initially extended through December 16, 2022, and then were extended through December 23, 2022, by Section 101 of the Further Continuing Appropriations and Extensions Act, 2023, and subsequently further extended through September 30, 2024, by the CAA 2023.

For FY 2023 and FY 2024, a low-volume hospital must be more than 15 road miles from another Subsection (d) hospital. Under the existing regulations at 42 CFR 412.101(a), the term “road miles” is defined to mean “miles” as defined at [42 CFR 412.92\(c\)\(1\)](#).

For FY 2023 and FY 2024, a low-volume hospital must have less than 3,800 discharges during the FY. Consistent with the requirements of Section 1886(d)(12)(C)(ii) of the Act, the term “discharge” for purposes of this provision refers to total discharges, regardless of payer including Medicare and non-Medicare discharges).

For purposes of the low-volume hospital adjustment for the portion of FY 2023 occurring on or after December 17, 2022, the number of total discharges is decided in a manner consistent with how it was decided for FY 2019 - 2022. That’s, to implement the extension of the temporary changes in the low-volume hospital payment policy for the remainder of FY 2023, we’ll use the hospital’s most recently submitted cost report to determine if the hospital meets the discharge criterion to get the low-volume hospital payment adjustment in the current year. This is consistent with our implementation of the changes in FYs 2019 - 2022 as well as the extension for the portion of FY 2023 provided by [Public Law 117-180](#).

For FY 2023 and FY 2024, the low-volume hospital payment adjustment is determined using a continuous linear sliding scale ranging from 25% for low-volume hospitals with 500 or fewer discharges to 0% for low-volume hospitals with greater than 3,800 discharges. CMS shows this as follows:

- For low-volume hospitals with 500 or fewer total discharges, the low-volume hospital payment adjustment is 0.25
- For low-volume hospitals with more than 500 total discharges but less than 3,800 total discharges, the low-volume hospital payment adjustment is calculated as $0.25 - [0.25/3300] \times (\text{number of total discharges} - 500) = (95/330) - (\text{number of total discharges}/13,200)$

As we discussed in MLN Matters Article [MM12970](#), for the extension of the temporary changes to the low-volume hospital payment adjustment for FY 2023 discharges occurring on or before December 16, 2022, consistent with our previously established process, a hospital must have made a written request to its MAC. This request must have contained sufficient documentation to establish that the hospital meets the applicable mileage and discharge criteria so that the MAC could decide if the hospital qualifies as a low-volume hospital. To get the low-volume hospital payment adjustment for FY 2023 discharges occurring on or after December 17, 2022, **a hospital that qualified for the low-volume hospital payment adjustment for its FY 2023 discharges occurring on or before December 16, 2022, doesn’t need to notify its MAC and will continue to get the applicable low-volume hospital payment adjustment** for its FY 2023 discharges occurring on or after December 17, 2022, without reapplying, provided it continues to meet the mileage criterion of being located more than 15 road miles from any other subsection (d) hospital.

However, for a hospital that didn't qualify for the low-volume hospital payment adjustment for its FY 2023 discharges occurring on or before December 16, 2022, in order to get the low-volume hospital payment adjustment for FY 2023 discharges occurring on or after December 17, 2022, consistent with our previously established procedure, **a hospital must notify and provide documentation in writing to its MAC that it meets both the applicable mileage criterion for FY 2023 and the discharge criterion applicable for FY 2023 based upon the most recently submitted cost report.** For such hospitals, to get the increase applied to payments for its FY 2023 discharges occurring on or after December 17, 2022, **its MAC must receive a hospital's written request or verification no later than March 15, 2023.**

If a MAC receives a hospital's written request or written verification for low-volume hospital status after March 15, 2023, for FY 2023 discharges occurring on or after December 17, 2022, and the MAC determines the hospital meets the criteria to qualify as a low-volume hospital, the MAC will apply the low-volume hospital payment adjustment to determine the payment for the hospital's FY 2023 discharges, effective prospectively within 30 days of the date of the MAC's low-volume hospital status determination.

2. Extension of the MDH Program

a. General

The MDH program was initially extended through December 16, 2022, as addressed in CR 12970. Subsequently, the MDH program extended through December 23, 2022, by Section 102 of the Further Continuing Appropriations and Extensions Act, 2023 (Public Law 117-229), and further extended through September 30, 2024, by Section 4102 of the CAA 2023.

b. Continuity and Reinstatement of MDH Status

The regulations at [42 CFR 412.92\(b\)\(2\)\(v\)](#) allowed MDHs to apply for classification as a Sole Community Hospital (SCH) by November 17, 2022. That's 30 days prior to the anticipated expiration of the MDH program on December 17, 2022, and if approved, to be granted such status effective with the expiration of the MDH program. However, since the MDH program didn't expire as of December 17, 2022, any hospitals that applied in this manner wouldn't be classified as a SCH as of December 17, 2022, and would retain MDH classification. We note that the subsequent 1-week extension provided by Section 102 of the Further Continuing Appropriations and Extensions Act would likely not have allowed providers to timely request classification for SCH status per the regulations at 42 CFR 412.92(b)(2)(v) and we aren't aware of any providers that did so. If there are such providers, they should contact their MACs for guidance on their MDH status.

Providers that were classified as MDHs as of December 16, 2022, generally will continue to be classified as MDHs effective December 17, 2022, through December 23, 2022, and will be reinstated as MDHs effective December 24, 2022, with no need to reapply for MDH classification. However, if an MDH cancelled its rural classification under [42 CFR 412.103\(g\)](#) effective on or after October 1, 2022, its MDH status may not be applied continuously or automatically reinstated, as applicable and as described previously.

To meet the criteria to become an MDH, generally a hospital must be located in a rural area. To qualify for MDH status, some MDHs may have reclassified as rural under the regulations at 42 CFR 412.103. With the anticipated expiration of the MDH provision, some of these providers may have requested a cancellation of their rural classification. Therefore, in order to qualify for MDH status, these providers must request to be reclassified as rural under [42 CFR 412.103\(b\)](#) and reapply for MDH classification in accordance with the regulations at 42 CFR 412.108(b), and meet the classification criteria at 42 CFR 412.108(a).

We note the regulations at Section 412.108(b)(5) require MACs to evaluate on an ongoing basis whether or not a hospital continues to qualify for MDH status. However, due to the COVID-19 public health emergency (PHE), we issued a blanket waiver of certain MDH eligibility requirements at 42 CFR 412.108(a). When the PHE ends, MACs will resume their standard practice for evaluation of all eligibility requirements.

More Information

We issued CR 13103 to your MAC as the official instruction for this change.

For more information, [find your MACs' website](#).

Document History

Date of Change	Description
February 27, 2023	Initial article released.

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