

FAB - G. D. & T./DSH  
NCA NEGOTIATIONS

NEGOTIATIONS WITH NGA ON MEDICAID  
DONATIONS, TAXES, AND DISPROPORTIONATE SHARE  
HOSPITAL (DSH) PAYMENT REGULATIONS

1. HCFA agreed to revise the regulation that implemented the the 1991 statute in the following ways:
  - Provide for growth amounts for low-DSH States;
  - Add additional classes of health care providers and services on which permissible taxes may be levied;
  - Clarify that a strict numeric test will not be applied ( i.e., hold harmless) to otherwise permissible taxes at or below 6 percent of provider revenues; and
  - Allow more flexibility in obtaining waivers from the broad-based and uniform tax requirements [increasing the number of exemptions that receive favorable treatment].
  
2. The regulation was not changed related to the following:
  - Giving States permission to use grant programs to repay private nursing home patients for increased charges related to taxes. These programs would violate the hold harmless provisions of the the law; and
  - Granting States discretion to add classes of items and services on which permissible taxes may be levied. The regulation continues the requirement that items and classes must be designated by the Secretary in regulation.
  
3. Provision in the 1993 Omnibus Budget Reconciliation legislation that affect DSH payments:
  - The provision limits the amount of DSH payments States may make to individual hospitals.
    - DSH payments and regular Medicaid payments to a hospital may not exceed 100 percent of the cost of providing services to Medicaid and uninsured patients. Effective in 1994 for public hospitals and in 1995 for private hospitals.
    - In 1994, States may pay certain public facilities up to 200 percent of these costs, if the Governor certifies that the excess payment is spent on health services.

- The provision may be viewed by Governors as restricting the flexibility they gained in the recent negotiations over the final regulation, since it may reduce States' ability to spend their full DSH allotments.
  - CBO estimates that more than \$2 billion would be saved by the Federal government. This "savings" will be viewed as a "cost" to their State budgets by the Governors.
- The Administration did not oppose this provision during budget reconciliation process.