

# Improving Your DSH Payments

HUMAN  ARC

**HFMA**  
**Healthcare Finance**  
**Fall Conference**  
*September 28, 2006*

***By John Smith***

# Topics to be discussed

- Medicare DSH unveiled
  - The Medicaid Proxy
  - The Medicare Proxy
- Its relevance
- Recent changes & opportunities

# Objective

- Educate on Medicare DSH program
- Illustrate the value of DSH
- Create awareness of current state and your next steps

# Medicare DSH

- Established in 1986
  - *Intended to ensure the financial viability of those hospitals that serve a disproportionate share of low-income patients*
- Utilized industry available proxies to determine “low income”
  - Medicaid inpatient utilization rate
  - SSI “Medicare” fraction

# Medicare DSH

## Two Methods for Calculating

### 1. Special Exemption Method

*(‘Pickle Amendment’)*

- Based on net revenues from state and local subsidies

### 2. Primary Method

*(Medicare DSH Patient Percentage)*

- Medicare Proxy +
- Medicaid Proxy

# Medicare DSH Patient Percentage

## Medicare Proxy

Medicare SSI Days  
Total Medicare Days

## Medicaid Proxy

Medicaid “Eligible” Non-Medicare Days  
Total Facility Days

# Medicare DSH

## Current Payment Adjustments

### DSH Adjustment Formula (2004): (A)

- If DSH% < 15%  
DRG % Add on = 0%
- If DSH% ≥ 15% < 20.2%  
DRG % Add on = 2.5% + [.65 \* (DSH% - 15%)]
- If DSH% ≥ 20.2%  
DRG % Add on = 5.88% + [.825 \* (DSH% - 20.2%)]

(A) Capped at 12% for urban hospitals < 100 beds  
and Rural hospitals < 500 beds

# Missouri State Averages

## Formulas:

MIUR Avg. Hospital = 15.9%

(Ranges from high of 55% and low of 1.0%)

SSI Avg. Hospital = 6.4%

(Ranges from high of 26.6% and low of 1.3%)

Avg. MO Hospital ***DSH % of 22.3%***

# Medicare DSH

## DSH Payment Calculation

DRG % Add on =  $5.88\% + [0.825 * (22.3\% - 20.2\%)] = 7.61\%$

Missouri Avg. DRG Pmt	\$4,577
Est. Avg. DRG Case Wt (CMI) X	<u>1.4521</u>
Avg. DRG pmt for MO Hosp	\$6,641
<b>DSH Add On at 7.6%</b>	<b>\$ 506</b>
Indirect Med Ed Adj	<u>0</u>
Total DRG payment	\$7,147
<b>Less deductibles</b>	<b><u>952</u></b>
Total Medicare Payment – Remit	<u><u>\$6,195</u></u>

# Reimbursement By Type

## Missouri Acute Care Hospitals

1.	Medicaid	\$1.8 B	(B)
2.	Medicare	\$1.6 B	(B)
3.	Medicare DSH	\$0.128 B	
	✓ \$2.0M per hospital	<i>(64 facilities)</i>	

(B) Estimated based upon CMS cost report database

# Medicare DSH

## Program Development

# Medicare DSH

## A Contentious Past

- Congress 1<sup>st</sup> directed CMS to develop a DSH adjustment formula in 1983.
- By 1984 CMS had done nothing.
- In 1986 Congress amended the Medicare statute specifying all components of the DSH formula.
- Touched-off years of litigation, primarily focused at the Medicaid proxy

# Medicaid Proxy

- CMS implemented the Medicaid proxy focused on “paid” versus “eligible” days
- In the 1990’s this was determined invalid by a number of circuit & district courts
- In 1997 CMS issued ruling 97-2 to allow the inclusion of Medicaid-eligible “unpaid” days.
- A focus on “eligible” Medicaid days identification is now critical for providers

# Medicaid Proxy

## How data is obtained:

- **Self-reported** by Providers on annual Medicare Cost Report

## Effective processes include:

- Medicaid eligibility enrollment – self-pay population
  - Consider exploring alternate populations
- State Medicaid file matches against IP population
- Disciplined timing due to the availability of data > 12 months old.

# Relative Value Disproportionate Denominators

## Medicare Proxy

$$\frac{\text{Medicare SSI Days}}{\text{Total Medicare Days}}$$

## Medicaid Proxy

$$\frac{\text{Medicaid Non-Medicare Days}}{\text{Total Facility Days}}$$

# Relative Value Disproportionate Denominators

## Medicare Proxy

$$\frac{\text{Medicare SSI Days}}{\text{Total Medicare Days}} \quad (45\%)$$

## Medicaid Proxy

$$\frac{\text{Medicaid Non-Medicare Days}}{\text{Total Facility Days}} \quad (100\%)$$

# DSH Patient Percentage - MO

## Value of SSI vs. Medicaid Days

- 64 recipient hospitals received \$128 million
- Value of each additional day...

### Statewide Value in FFY 2004

Value of 10  
add'l days

✓\$4,340 (XIX)

✓\$8,140 (SSI)

	Medicaid Day	SSI Day
<b>Average</b>	<b>\$ 434</b>	<b>\$ 814</b>
High	\$ 787	\$1,250
Low	\$ 88	\$ 124

# DSH Patient Percentage - KS

## Value of SSI vs. Medicaid Days

- 29 recipient hospitals received \$33 million
- Value of each additional day...

### Statewide Value in FFY 2004

Value of 10  
add'l days

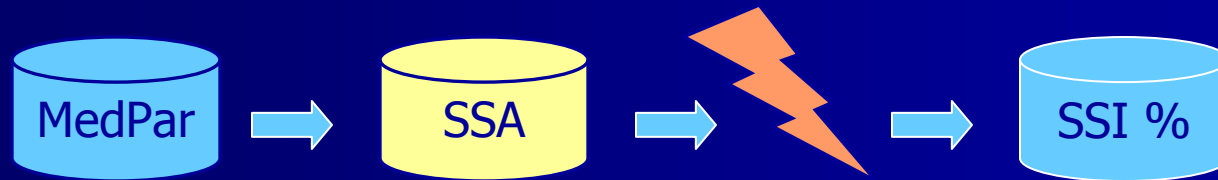
✓\$4,380 (XIX)

✓\$8,530 (SSI)

	Medicaid Day	SSI Day
<b>Average</b>	<b>\$ 438</b>	<b>\$ 853</b>
High	\$ 901	\$2,193
Low	\$ 106	\$ 179

# Medicare Proxy

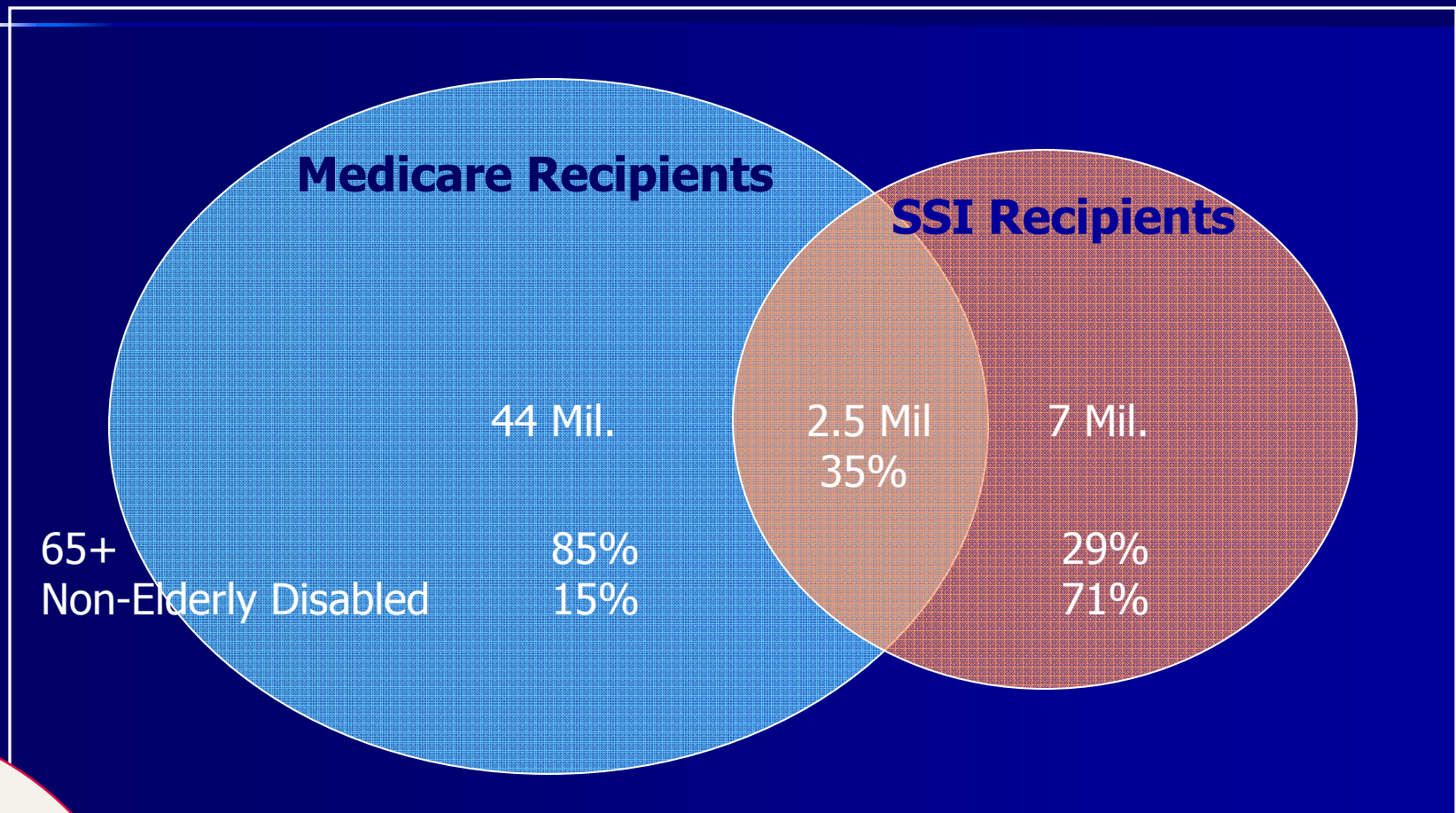
## How data is obtained



- MEDPAR (Medicare Provider Analysis and Review File) is Medicare's database of hospital inpatient claims
- SSI file is a file created by SSA for CMS to identify SSI eligible individuals
- Calculated % is provided annually by CMS (typically in September)

# Medicare Proxy

## Who is this Population?



# Medicare Proxy

## Supplemental Security Income (SSI)

Two primary disability programs at SSA:

1. Title II = SSD program
  2. Title XVI = SSI program
- ✓ Individuals enrolled on both programs are the population defined by the Medicare Proxy

# Medicare Proxy Supplemental Security Income (SSI)

## Title II = SSD program

- For disabled individuals with enough historical 'work credits' to receive an "earned" benefit.
- Eligible for Medicare after 2 yrs of enrollment.

## Title XVI = SSI program

- For disabled individuals with either no work credits or who's earned benefit is < the benefit level of SSI with income & resources below threshold.
- No eligibility for Medicare.

# State SSI %'s Relative to Poverty Level

	Poverty Rate	SSI Ratio	Ratio
Missouri	8.3%	6.3%	76%

## Low SSI ratio States:

	Poverty Rate	SSI Ratio	Ratio
Oklahoma	11.4%	8.3%	73%
Arkansas	15.0%	10.8%	72%
Iowa	7.4%	4.4%	59%
Kansas	8.2%	4.8%	58%
Nebraska	10.7%	4.7%	44%

## High SSI ratio States:

	Poverty Rate	SSI Ratio	Ratio
Calif.	7.3%	17.9%	245%
Florida	7.9%	10.7%	135%
Georgia	8.5%	11.3%	132%
Nevada	8.1%	9.4%	117%
Texas	12.4%	13.3%	107%
Tenn.	10.3%	10.9%	106%

# Access to SSI Ratio Details After December 8, 2004 (MMA § 951)

## Currently

No appeal required

Request through CMS

No fee required

Data Use Agreement

## Previously

Appeal must be pending

Request through FI

\$900 - \$1200 per year

Data Use Agreement

[http://www.cms.hhs.gov/PrivProtectedData/07\\_DSHRateData.asp](http://www.cms.hhs.gov/PrivProtectedData/07_DSHRateData.asp)

# Access to SSI Ratio Details

## MMA § 951 Limitations / Opportunities

- Only discloses the data used to compute the SSI fraction
- Does not allow a hospital to determine what CMS may have missed.
- Detective work is still up to the hospital...

# Medicare & SSI

## Recent Rulings & Changes

# PRRB Case Review

## Baystate vs. Mutual of Omaha

- PRRB hearings in 2003 & 2004
- Provider challenged the CMS calculation of SSI fraction for FFYs 1993 – 1996
- Decision issued March 14, 2006

# PRRB Decision

## Baystate vs. Mutual of Omaha

- Board Rejected CMS' argument that the SSI calculation is fixed when calculated
- An estimate, rather than an accurate determination, is not permissible
- CMS failed to use the "best data available" because there are issues with the SSI data, the MEDPAR data and the match process

Case was remanded for correction

# PRRB

## Baystate vs. Mutual of Omaha

### Conclusions Drawn:

- CMS failed to use the “best available” data
  - So better data exists
- CMS’ match process is flawed
  - Failed to use unique identifiers
- These flaws tend to deflate the DSH percentage
- Opportunity ?

But, CMS had not spoken yet...

# Administrator's Decision

## Baystate vs. Mutual of Omaha

May 11, 2006:

- Determined that CMS' determination of the DSH percentage was correct
- The hospital was not entitled to a recalculation of its DSH percentage
  - The process was based upon a "Policy Decision" **balancing burden vs. accuracy**
  - Medicare fraction is not subject to updating

# Administrator's Decision

## Baystate vs. Mutual of Omaha

### Impact:

- Hospitals may be unable to recalculate their DSH percentage and reimbursement
  - regardless of errors you can prove were made by CMS.
- **Baystate** has appealed the decision to federal district court
  - This will impact numerous pending appeals

# Medicare DSH

**What to Do Next?**

# Conclusions

- Credibility of the (CMS supplied) SSI % is suspect.
- CMS allows access to the data used to calculate the %.
  - To challenge, providers require a means to verify SSI status on 100% of Medicare admissions. *Take steps to identify.*
- In light of the recent Administrator's decision:
  - If you are receiving DSH or close to meeting DSH threshold, carefully consider the benefits of challenging CMS' calculation of the Medicare fraction and DSH percentage
  - *Preserve your appeal rights pending the ultimate decision in **Baystate***

# Questions



# Contact Information

John D. Smith  
Human Arc  
Director, Quality Assurance  
Hospital Business Group  
(800) 278-5135, ext. 1014  
[jsmith@HumanArc.com](mailto:jsmith@HumanArc.com)