

# MHA Membership Update on Medicaid DSH Audits

January 8, 2019

# Litigation Blocks DSH Audit Change

- CMS is abandoning one aspect of its effort to change Medicaid DSH audit standards.
- CMS used a *Frequently Asked Questions* document to require that Medicare and third-party payments offset costs in DSH audits.
- Eleven court rulings, including an MHA lawsuit, invalidated using FAQs in lieu of the federal regulatory process.
- CMS is withdrawing the FAQs and its appeals.

# Hospital Liabilities Decrease

- Missouri hospitals' Medicaid DSH liabilities will fall significantly for SFYs 2011 through 2017.
- More federal DSH funds will remain in Missouri rather than be returned to the federal treasury.
- Missouri's aggregate DSH audit liability to CMS is eliminated for SFY 2011 and 2012. It was \$92.5 million in federal DSH funds.



**DRAFT****Summary of UCC Analysis by DSH Year**

**NOTE 1: UCCs calculated below are being calculated at the request of MO HealthNet Division. Data herein is not final and may be subject to additional review.**

**NOTE 2: Patient payments are still being offset against cost in the UCC calculations below.**

<b>2011</b>	Statewide UCC	Statewide Shortfall/(Longfall)	Statewide Overpayments	Number of Hospitals with Overpayments
Per Report	\$ 314,270,507	\$ (113,924,252)	\$ (154,262,543)	57
Excluding Medicare & TPL Payments	\$ 1,259,541,929	\$ 751,986,149	\$ (18,911,751)	7
Change	\$ 945,271,422	\$ 865,910,401	\$ 135,350,792	(50)

<b>2012</b>	Statewide UCC	Statewide Shortfall/(Longfall)	Statewide Overpayments	Number of Hospitals with Overpayments
Per Report	\$ 393,379,449	\$ (32,550,529)	\$ (132,417,248)	46
Excluding Medicare & TPL Payments	\$ 1,419,984,933	\$ 922,195,931	\$ (22,737,522)	4
Change	\$ 1,026,605,484	\$ 954,746,460	\$ 109,679,726	(42)

<b>2013</b>	Statewide UCC	Statewide Shortfall/(Longfall)	Statewide Overpayments	Number of Hospitals with Overpayments
Per Report	\$ 441,598,995	\$ 16,939,316	\$ (118,680,502)	39
Excluding Medicare & TPL Payments	\$ 1,629,317,963	\$ 1,115,982,745	\$ (4,242,194)	3
Change	\$ 1,187,718,968	\$ 1,099,043,429	\$ 114,438,308	(36)

<b>2014</b>	Statewide UCC	Statewide Shortfall/(Longfall)	Statewide Overpayments	Number of Hospitals with Overpayments
Per Report	\$ 484,578,542	\$ 53,222,753	\$ (94,842,715)	40
Excluding Medicare & TPL Payments	\$ 1,690,223,711	\$ 1,192,850,111	\$ (1,272,766)	2
Change	\$ 1,205,645,169	\$ 1,139,627,358	\$ 93,569,949	(38)

These numbers exclude the Institutions of Mental Disease.

# CMS Pushes Change Via Regulation

- Facing backlash from its FAQs, CMS issued a regulation requiring the new DSH audit standard. It would take effect June 2, 2017.
- The regulation has been blocked by federal court rulings as violating federal Medicaid law. MHA lawsuit was the first to win on this issue. CMS has appealed.
- If the regulation is upheld, CMS' third-party payment standards will apply 6/2/17.



# Board Workgroup Considers Options

- An MHA-board appointed DSH Audit Litigation Redistribution Workgroup was appointed in February 2018. It is assessing whether and how to redistribute hospital funds to address concerns about payment equity under DSH audits.
- MHA membership webinars and District Council meetings in February-March 2018 addressed the DSH audit litigation rulings and the Workgroup's deliberations.

# DSH Audit Timing Considerations

- Myers & Stauffer has collected data to redo the completed DSH audits without the FAQ policies.
- As instructed by the MO HealthNet Division, some additional audit work may be performed.
- General policy is that hospitals have a year after MHD files the revised final DSH audit to pay any obligations.

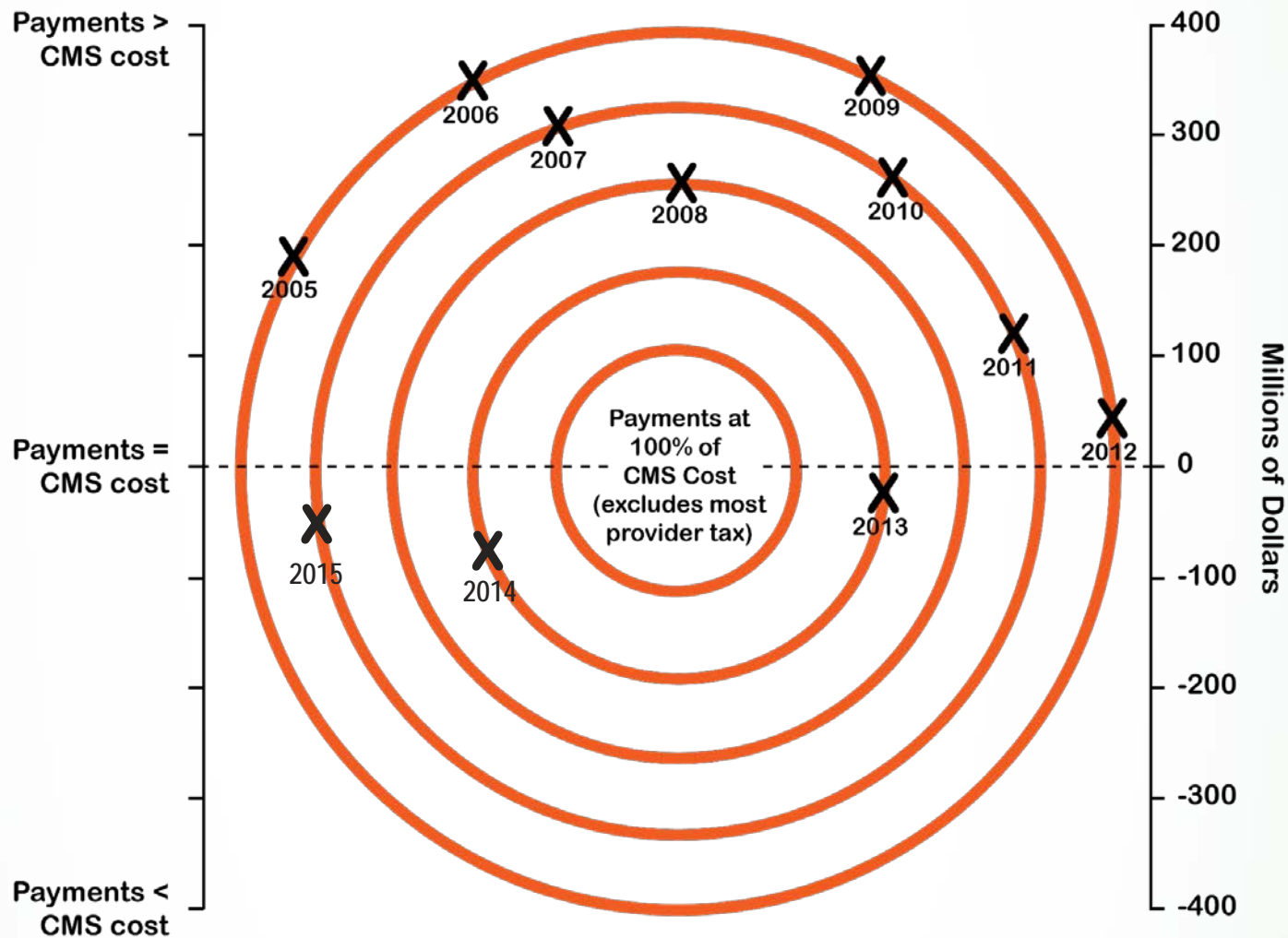


# Medicaid DSH Audit Overview

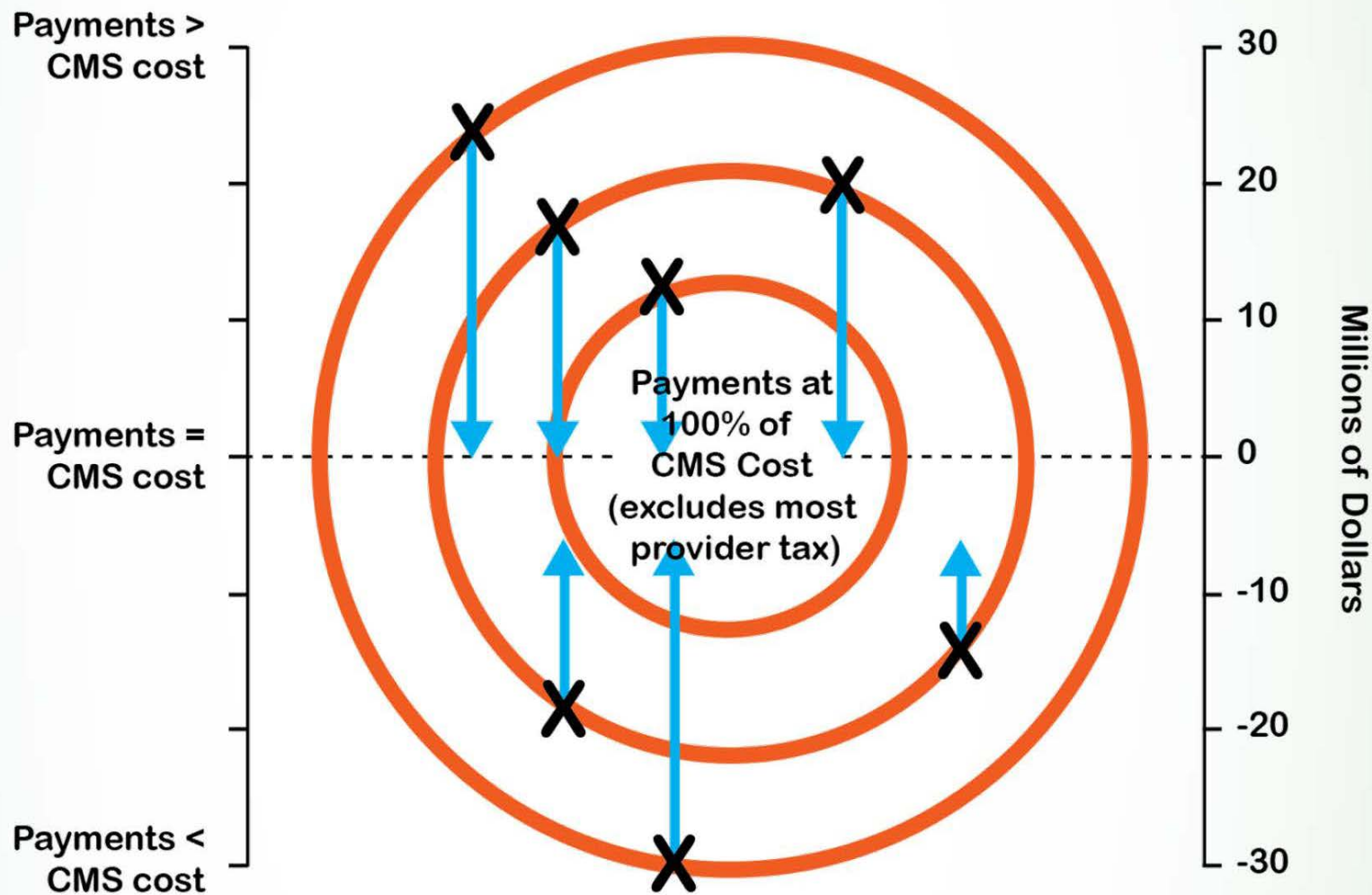
- DSH audits assess the aligning of costs and payments. A state's DSH payments to a hospital are not to exceed the hospital's DSH-compensable costs as defined by CMS.
- This is more challenging than it might appear. Both payments and costs are prospectively determined using four-year old audited cost reports and are subject to unpredictable swings in utilization, budgets, changing reimbursement systems, etc.



# Aggregate Results of DSH Audits Applying FAQs 33 & 34



# Facility Results of DSH Audits



# Facility Results of DSH Audits Excluding FAQs 33 & 34

