

September 6, 2022

Via Fedex and E-mail

Medicaid Policy Unit
280 State Drive, Center Building
Waterbury, VT 05671-1000
AHS.MedicaidPolicy@vermont.gov

Re: Opposition to Vermont's Proposed One-Time DSH Payment to In-state Hospitals

Dear Sir/Madam:

Vermont's Proposed Policy GCR 22-082—to use remaining COVID-19 relief funds to make a one-time additional Disproportionate Share Hospital (DSH) payment to in-state hospitals only— is an outrage to all out-of-state hospitals that provide necessary care to Vermont Medicaid patients for approximately 30% of the reimbursements paid to in-state hospitals. As you know, four New Hampshire border hospitals have filed suit in Vermont federal court to stop Vermont's Agency of Human Services ("AHS") from continuing its practices of paying discriminatory, disparate and unlawful Medicaid reimbursement rates to out-of-state hospitals for the care they provide to Vermont Medicaid participants. *See Alice Peck Day Memorial Hospital, et al. v. Jenney Samuelson, in her official capacity as the Secretary of the Vermont AHS, et al.*, United States District Court for the District of Vermont, Case No. 2:21-cv-00102-cr.

These New Hampshire border hospitals provide crucial services to low-income Vermonters and Granite Staters, as part of a single, essential, rural health care system. Vermont's neighboring states recognize that patients' access to quality health care is a need that does not stop at the state border. None of Vermont's neighboring states discriminates against out-of-state hospitals like Vermont does. On the contrary, Vermont's neighbors reimburse both in-state and Vermont hospitals at the same rates for the inpatient and outpatient care they provide to neighboring states' Medicaid participants. Vermont's uniquely disparate Medicaid reimbursement structure is a wholly-improper effort to shift seventy percent (70%) of the costs of inpatient and outpatient care for Vermont Medicaid participants to hospitals in other states.

Recent Medicaid data show that more Vermont residents obtain out-of-state hospital services than residents of any other state.¹ Rather than furthering the disparate and discriminatory treatment of out-of-state hospitals caring for Vermont's Medicaid plan participants by proceeding with GCR 22-082's proposed one-time DSH payment to in-state hospitals only, Vermont should consider using a portion of its remaining and available pandemic relief funds to stop this improper cost shifting to out-of-state

¹ For example, nineteen percent (19%) of all hospital stays for Vermont Medicaid participants are out-of-state stays. *See* Medicaid and CHIP Payment and Access Commission, "Medicaid Payment Policy for Out-of-State Hospital Services" (January 2020), Appendix A, available online at <https://bit.ly/3AIRqwo> (last accessed September 1, 2022).

hospitals. Proposed Policy GCR 22-082 has an estimated gross annualized budget impact of approximately **\$23.7 million**. Compare that to the annual disparity in Medicaid reimbursement to out-of-state hospitals, which we estimate to be approximately **\$2 million**—a relatively small dollar amount, but one that will make a meaningful difference to border hospitals and to Vermont’s Medicaid population.

The healthcare ecosystem between hospitals in Vermont and New Hampshire is fragile. Vermont Medicaid participants need and rely upon continued access to the quality health care services which the New Hampshire border hospitals provide. Vermont’s inequitable reimbursement practices jeopardize the New Hampshire border hospitals’ continued ability to provide the full array of core service lines to residents in these largely rural areas spanning both states. Vermont should step up, and do what is right, fair and just by reimbursing out-of-state hospitals for Medicaid services at the same rates it does for in-state hospitals. Failure to do so simply frays the healthcare safety net for all.

Sincerely yours,

A handwritten signature in blue ink that reads "W. Scott O'Connell". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

W. Scott O'Connell
Morgan C. Nighan
Kierstan E. Schultz



September 28, 2022

Via e-mail
Medicaid Policy Unit
280 Center Drive, Center Building
Waterbury, VT 05671-1000
AHS.MedicaidPolicy@vermont.gov

Re: Comments on Vermont's Proposed One-Time DSH Payment to In-State Hospitals Only

Dear Sir or Madam:

The New Hampshire Hospital Association (NHHA) is writing to comment on Vermont's Proposed Policy GCR 22-082 to use remaining COVID-19 relief funds to make a one-time additional Medicaid disproportionate share hospital (DSH) payment to in-state hospitals only.

New Hampshire hospitals, particularly those along the border with the Green Mountain State, provide a significant amount of care to Vermont Medicaid beneficiaries. According to the Medicaid and CHIP Payment and Access Commission, nineteen percent of all hospital stays for Vermont Medicaid participants are out-of-state stays.¹ The past two-and-a-half years have demonstrated just how connected our regions are in terms of delivering health care to patients when and where they need it. Furthermore, the financial challenges that have been brought on by the COVID-19 pandemic have only exacerbated the difficulty that all hospitals have in serving the patients and communities who need them now more than ever before.

The payment disparity between what Vermont Medicaid pays its in-state-hospitals versus what it pays those in New Hampshire is significant and creates more challenges for Granite State hospitals in providing care to all who need their services. While we understand that litigation brought by several border hospitals in New Hampshire over the unreasonable payment rates they receive for caring for Vermont Medicaid beneficiaries is ongoing, be certain that other New Hampshire hospitals are also experiencing difficulties over these inadequate payment rates as well as overall operational challenges, such as lack of responsiveness to out-of-state providers.

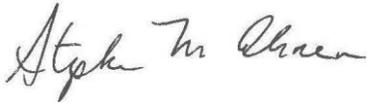
The proposal to use \$23.7 million in excess COVID-19 relief funds to make one-time Medicaid DSH payments to in-state hospitals only serves to exacerbate the payment inequities that New Hampshire hospitals must endure when caring for Vermont Medicaid beneficiaries. Our understanding is that the annual disparity in Medicaid reimbursement to out-of-state hospitals is

¹ Medicaid and CHIP Payment and Access Commission, "Medicaid Payment Policy for Out-of-State Hospital Services" (January 2020), Appendix A, available online at <https://bit.ly/3AIRqwO>

estimated to be approximately \$2 million, a relatively small dollar amount, but one that would represent an important commitment to serving all of Vermont's Medicaid beneficiaries regardless of their site of care.

Like others across the region, hospitals in New Hampshire and Vermont are struggling as they confront the squeeze of workforce shortages and increased expenses associated with the need to increase wages, bring in temporary or contract labor to staff their busy EDs, inpatient units and outpatient clinics while dealing with the ongoing challenges of inflation and increased supply chain costs. The inequitable reimbursement rates offered to New Hampshire hospitals solely because they are out-of-state is simply unfair and puts in jeopardy their ability to care for all of their patients, including Vermont Medicaid beneficiaries. We urge you to set aside some of these dollars to remedy this payment inequity to better support all who support care in our region, including those in New Hampshire.

Sincerely,

A handwritten signature in cursive script that reads "Stephen M. Ahnen". The signature is written in dark ink and is positioned above the typed name and title.

Stephen M. Ahnen
President