COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HEALTH

January 11, 2018

Daniel M. Mulholland III
Horty, Springer & Mattern, PC
4614 Fifth Avenue
Pittsburgh, PA 15213

VIA E-Mail

Re: Bradford Hospital – Request for Single Medicare Provider Number After Merger with Olean General Hospital

Dear Mr. Mulholland:

Thank you for your correspondence of January 9, 2018 formally requesting that the Pennsylvania Department of Health (DOH) inform CMS it will agree to enter into a reciprocal agreement with the State of New York. That agreement would enable our two state agencies (PA and NY) to conduct coordinated survey and certification activities for Bradford Regional Medical Center (BRMC), located in the Commonwealth of Pennsylvania, and Olean General Hospital (Olean), located in the State of New York. You make this request of the Department so that the hospitals in question can be treated as a single hospital with a single Medicare provider number (CCN), following a corporate merger which you intend to close on Friday, January 12, 2018.

DOH is always pleased to have opportunities to work cooperatively with CMS, other state agencies, and regulated entities to enable arrangements that will enhance the delivery of health services for the benefit of the citizens of the Commonwealth. Since there are areas of the proposed arrangement which are still unclear, your assistance in fully understanding how it will work going forward would be very much appreciated.

You have represented that the surviving entity following the merger will be Olean. It is my understanding that in order for the two hospitals to qualify for a single CCN number, BRMC will be considered a remote location of Olean and will therefore no longer exist as a separate licensed hospital for federal purposes. The single CCN number will enable the new hospital entity, Olean, to take advantage of an increased Medicare reimbursement and to be able to make discounted pharmaceutical purchases through the federal 340B program.

Deputy Secretary for Quality Assurance
625 Forster Street | Health & Welfare Building, 8th Floor West | Harrisburg, PA 17120-0701 | 717.783.1078 | Fax 717.525.5506 | www.health.pa.gov

CMS guidance for multi-state hospitals indicates that each location of a hospital must comply with all applicable licensure requirements for the state where that particular activity is located. BRMC is currently licensed as a hospital, and must meet Pennsylvania state licensure requirements to be able to continue providing hospital services in Pennsylvania. DOH would appreciate information that may aid its understanding of how BRMC intends to meet both CMS Conditions of Participation as a remote location, and also meet Pennsylvania regulations applicable to licensed hospitals.

CMS requires hospitals with remote locations to operate as single entities. The applicable federal requirements include unified management and administrative functions. Pennsylvania regulations applicable to hospitals require each individual licensed hospital to have certain management and administrative functions. For example, each licensed hospital must have a governing body that conducts business and makes decisions for that individual licensed facility. Ultimately, the governing body of a Pennsylvania licensed hospital is responsible to ensure that all Pennsylvania regulatory requirements are implemented. It is logical to assume that the governing body of Olean, in the proposed arrangement, will govern the entire hospital, of which BRMC will be operated as an integral part, in accordance with state requirements applicable to New York licensed hospitals. **DOH would like to better understand how Olean will be able to ensure that the Pennsylvania regulatory and statutory requirements applicable to BRMC will be met while at the same time satisfying CMS requirements for unified operations.**

In addition, there are a number of issues yet to be resolved regarding how Pennsylvania and New York operations may be coordinated to ensure both efficiency and appropriate participation on the part of both state and federal regulators. DOH is certainly willing to work toward resolution of those issues. I would like to briefly identify some of them here so you have a better understanding of the considerations that have arisen with regard to your request. To the extent that there might be similar arrangements in unified hospitals operating campuses across state borders of which you may be aware, DOH would very much like to be guided by what has been done in those cases, and perhaps to solicit your assistance in procuring an agreement that has been used or considered elsewhere that may address some of the concerns raised. DOH would like to have a better understanding of how it will be informed of any federal complaints that are made to New York regarding BRMC; how any joint investigations or validation surveys will be coordinated; and how to ensure Pennsylvania's appropriate participation in the process of citing the facility and ensuring that there is an acceptable Plan of Correction. Because BRMC will not exist as an independent hospital in the CMS database, it is unclear how Pennsylvania will be reimbursed for survey functions that it will have to provide. Any light you can shed on any of these concerns would be much appreciated. There is also an outstanding question as to how the respective Regional Offices of CMS will coordinate questions or issues that may arise with regard to the proposed arrangement, given that New York and Pennsylvania are in different CMS regions.

We very much look forward to your response, and hope to be able to count on your assistance to clarify and address the questions and considerations that we have been working to identify. Thank you.

Sincerely,

Nancy J. Lescavage

Nancy J. Lescavage,
Deputy Secretary for Quality Assurance

Cc:
Roxanne Rocco, Manager, Certification and Enforcement Branch, Centers for Medicare & Medicaid Services, Northeast Division of Survey & Certification

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Jacob K. Javits Federal Building, Room 37-130
26 Federal Plaza
New York, New York 10278-0063

NORTHEAST DIVISION OF SURVEY & CERTIFICATION

CMS Certification Number: (33-0103) (33-S103) (39-0118) (39-3420) (39-3421) (39-3422) (39-5355)
National Provider Identifier (NPI): 1225083074 (NPI) 1578569885

August 2, 2018

Timothy Finan
Olean General Hospital
515 Main Street
Olean, NY 14760

Dear Mr. Finan:

We have been informed by the New York State Department of Health and the Pennsylvania State Department of Health that Olean General Hospital and Bradford Regional Medical Center merged, effective January 12, 2018. This notice is to acknowledge the acquisition/combination of Olean General Hospital with Bradford Regional Medical Center, effective January 12, 2018. As a result of this acquisition and related actions, a change of ownership has occurred for Medicare purposes. The Medicare provider agreement for Bradford Regional Medical Center (39-0118) is subsumed into the Medicare provider agreement of Olean General Hospital (CCN: 33-0103).

In addition, as a result of the acquisition/combination, the 14-bed PPS-excluded psychiatric unit (33S103) will maintain its payment status. Olean General Hospital is also acquiring (39-3420) (39-3421) (39-3422) and (39-5355). Bradford Regional Medical Center, CCNs 39-0118 will be retired, effective January 12, 2018

According to regulation published in the April 4, 1980, Federal Register, when there is a change of ownership, the existing provider agreement is automatically assigned to the new owner (42 C.F.R. 489.18). An assigned agreement is subject to all applicable statutes and regulations and to the terms and conditions under which the original agreement was issued including, but not limited to:

1. Any existing plan of correction.
2. Any expiration date.
3. Compliance with applicable health and safety standards.
4. Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. Part 420, Subpart C of this chapter.
5. Compliance with civil rights requirements set forth in 45 C.F.R. Parts 80, 84, and 90.
6. Compliance with 42 C.F.R. Part 412 – Prospective Payment Systems for Inpatient Hospital Services.
7. Compliance with 42 C.F.R. 413.65 – Requirements for a determination that a facility or an organization has provider-based status.

Additionally, the new owner will be responsible for any claims, liabilities, overpayments, civil money penalties, and other burdens and obligations that accompany the Medicare Provider agreement, regardless of language to the contrary in other documents, including the Asset Purchase Agreement or Sale Order. Thus, CMS' rights to collect and recoupment for overpayments and other matters are not affected by the sale or the change of ownership.

Any time you add a new service location you are required to report it to your Medicare Administrative Contractor within 90 days of the effective date of change, regardless of whether you are filing a provider-based attestation or

not. Per 42 C.F.R. 424.516 (e), failure to report such changes within 90 days may result in the deactivation or revocation of the provider's Medicare billing privileges. These changes must be reported by submitting a Form CMS-855A.

We welcome your participation and look forward to working with you in the administration of the Medicare program. If you have any questions, please contact Mitzi Zambrano Certification Specialist, in the New York office at (212) 616-2225.

Sincerely,

Lauren D. Reinertsen, MPA, PhD, NHA
Associate Regional Administrator
Northeast Division Survey & Certification

cc: NYS Department of Health
Pennsylvania State Department of Health
National Government Services (NGS)

Bradford Regional Medical Center
Bradford, PA 16701

Financial data for hospital cost report period ending 12/31/2016 (HCRIS 597730 - 2010).
Medicare IPPS claims data are for federal fiscal year ending 09/30/2016 (Final rule MedPAR).
Medicare OPPS claims data are for calendar year ending 12/31/2016 (Final rule OPPS).
Data from other sources and their effective periods are identified within report headers.
Errata: Please notify us by email of any corrections or updates.

Bradford Regional Medical Center
Bradford, PA 16701
CMS Certification Number: 390118

Free Profile

VIDEO Understanding and Using Free Hospital Profiles

Identification and Characteristics

Last updated 04/19/2018 / Definitions

Name and Address: **Bradford Regional Medical Center**
116 Interstate Parkway
Bradford, PA 16701

Telephone Number: (814) 368-4143

Hospital Website: www.brmc.com/

CMS Certification Number: 390118

Type of Facility: Short Term Acute Care

Type of Control: Voluntary Nonprofit, Other

Total Staffed Beds: 182

Total Patient Revenue: $143,553,126

Total Discharges: 2,747

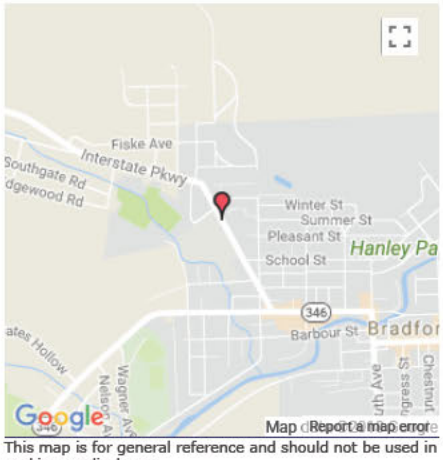
Total Patient Days: 14,465

TPS Quality Score: 31.17

Patient Experience Rating: ★★☆☆☆

NOTES

This facility and Olean General Hospital (Provider ID 330103) combined to create the Upper Allegheny Health System on 11/05/2009.



This map is for general reference and should not be used in seeking medical care.

PROFILE COMPARE

Compare Profile information with national averages or designated peer groups.
More Information | Sample Report

CLINICAL COSTS

Explore online costs by MS-DRG, medical service, routine service, or department
More Information | Sample Report

Clinical Services

Definitions

Cardiovascular Services
- Cardiac Rehab

Emergency Services
- Emergency Department

Neurosciences
- Electroencephalography (EEG)
- Sleep Studies

Oncology Services
- Chemotherapy

Orthopedic Services
- Arthroscopy
- Joint Replacement

Other Services
- Hemodialysis
- Lithotripsy (ESWL)
- Obstetrics

Radiology / Nuclear Medicine / Imaging
- Computed Tomography (CT)
- Computed Tomography-Angiography (CTA)
- Magnetic Resonance Imaging (MRI)
- Positron Emission Tomography (PET)
- Single Photon Emission Computerized Tomography (SPECT)

Rehabilitation Services
- Physical Therapy

Special Care
- Intensive Care Unit (ICU)

Subprovider Units
- Skilled Nursing (SNF)

Surgery
- Inpatient Surgery

Wound Care
- Wound Care

Joint Commission Accreditation

Accreditation status licensed from The Joint Commission
Last updated 04/01/2018 / Definitions and Terms of Use

- Current Status: 02/08/2018 - Preliminary Denial of Accreditation

Verified Trauma Program

Definitions

- No data are available

Use coding indicators and comparative data to identify areas for improvement
More Information | Sample Report

Drill down to more granular utilization statistics for ICD diagnoses and procedures
More Information | Sample Report

Inpatient Utilization Statistics by Medical Service

Definitions

	Number Medicare Inpatients	Average Length of Stay	Average Charges	Medicare Case Mix Index (CMI)
Cardiology	131	3.92	$11,188	1.0587
Medicine	282	4.28	$11,595	1.2271
Neurology	17	3.65	$8,537	1.0151
Orthopedic Surgery	89	2.97	$30,953	2.1771
Orthopedics	40	4.35	$11,458	0.9740
Psychiatry	151	9.13	$10,846	0.9722
Pulmonology	230	4.00	$11,798	1.1152
Surgery	29	7.17	$27,380	2.5721
Urology	60	3.62	$9,732	1.0914
Vascular Surgery	17	2.00	$24,104	2.1683
Total	1,073	4.72	$13,856	1.2665

Build color coded maps based on more detailed Patient Origin data
More Information | Sample Report

Inpatient Origin for Top 3 Zip Codes

Medicare Hospital Market Service Area File for calendar year ending 12/31/2016 / Definitions

ZIP Code of Residence	Discharges	Days of Care	Charges	Discharges Inc/(Dec)	Market Share
16701	702	3,112	$9,456,358	17.4%	65.2%
16749	93	321	$1,003,810	27.4%	36.5%
16731	66	251	$885,380	65.0%	37.3%

Outpatient Utilization Statistics by APC

Definitions

APC Number	APC Description	Number Patient Claims	Average Charge	Average Cost
8011	Comprehensive Observation Services	228	$778	$191
5012	Level 2 Examinations and Related Services	3,739	$138	$211
9453	Injection, nivolumab	49	$80	$26
5024	Level 4 Type A ED Visits	1,045	$736	$176
5491	Level 1 Intraocular Procedures	163	$928	$390
5312	Level 2 Lower GI Procedures	347	$1,065	$446
9119	Injection, pegfilgrastim 6mg	51	$14,516	$4,683
9213	Pemetrexed injection	33	$202	$65
5023	Level 3 Type A ED Visits	1,111	$416	$99
9235	Panitumumab injection	27	$345	$111
9272	Inj, denosumab	100	$35	$11
9131	Inj, Ado-trastuzumab Emt 1mg	17	$91	$29
5301	Level 1 Upper GI Procedures	186	$869	$365
5562	Level 2 Echocardiogram with Contrast	195	$1,246	$413
5593	Level 3 Nuclear Medicine and Related Services	112	$2,840	$1,251
5724	Level 4 Diagnostic Tests and Related Services	152	$2,015	$667
5532	Level 2 Ultrasound and Related Services	726	$399	$176
5223	Level 3 Pacemaker and Similar Procedures	12	$2,810	$1,180
5521	Level 1 X-Ray and Related Services	1,754	$142	$63
5442	Level 2 Nerve Injections	170	$1,463	$615

Beds and Patient Days by Unit

Definitions

	Available Beds	Inpatient Days

	Available Beds	Inpatient Days
HOSPITAL (including swing beds)		
Routine Services	82	12,874
Special Care	5	1,161
Nursery		430
Total Hospital	182	44,030

Financial Statistics

Definitions

	$	%
Gross Patient Revenue	$143,553,126	96.7
Non-Patient Revenue	$4,933,073	3.3
Total Revenue	$148,486,199	
Net Income (or Loss)	$-433,029	-0.3

Use a five-year view of Profile statistics to spot trends
More Information | Sample Report

Olean General Hospital
Olean, NY 14760

Financial data for hospital cost report period ending 12/31/2016 (HCRIS 602508 - 2010).
Medicare IPPS claims data are for federal fiscal year ending 09/30/2016 (Final rule MedPAR).
Medicare OPPS claims data are for calendar year ending 12/31/2016 (Final rule OPPS).
Data from other sources and their effective periods are identified within report headers.
Errata: Please notify us by email of any corrections or updates.

Olean General Hospital
Olean, NY 14760
CMS Certification Number: 330103

Free Profile

VIDEO Understanding and Using Free Hospital Profiles

Identification and Characteristics

Last updated 04/19/2018 / Definitions

Name and Address: **Olean General Hospital**
515 Main Street
Olean, NY 14760

Telephone Number: (716) 373-2600

Hospital Website: www.ogh.org

CMS Certification Number: 330103

Type of Facility: Short Term Acute Care

Type of Control: Voluntary Nonprofit, Other

Total Staffed Beds: 164

Total Patient Revenue: $273,583,044

Total Discharges: 4,595

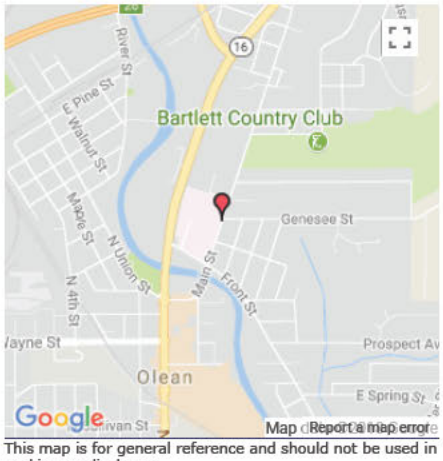
Total Patient Days: 25,974

TPS Quality Score: 30.55

Patient Experience Rating: ★★★☆☆

NOTES

This facility and Bradford Regional Medical Center (Provider ID 390118) combined to create the Upper Allegheny Health System on 11/05/2009.



This map is for general reference and should not be used in seeking medical care.

PROFILE COMPARE

Compare Profile information with national averages or designated peer groups.
More Information | Sample Report

CLINICAL COSTS

Explore online costs by MS-DRG, medical service, routine service, or department
More Information | Sample Report

Clinical Services

Definitions

Cardiovascular Services
- Cardiac Cath Lab
- Cardiac Rehab
- Coronary Interventions
- Vascular Surgery

Emergency Services
- Emergency Department

Neurosciences
- Electroencephalography (EEG)
- Sleep Studies

Oncology Services
- Chemotherapy
- Radiation Therapy

Orthopedic Services
- Arthroscopy
- Joint Replacement

Other Services
- Hemodialysis
- Lithotripsy (ESWL)
- Obstetrics

Radiology / Nuclear Medicine / Imaging
- Computed Tomography (CT)
- Computed Tomography-Angiography (CTA)
- Intensity-Modulated Radiation Therapy (IMRT)
- Magnetic Resonance Imaging (MRI)
- Positron Emission Tomography (PET)
- Single Photon Emission Computerized Tomography (SPECT)

Rehabilitation Services
- Physical Therapy

Special Care
- Intensive Care Unit (ICU)

Subprovider Units
- Psychiatric
- Swing Beds - SNF

Surgery
- Inpatient Surgery

Wound Care
- Hyperbaric Oxygen
- Wound Care

Joint Commission Accreditation

Accreditation status licensed from The Joint Commission
Last updated 04/01/2018 / Definitions and Terms of Use

- Current Status: 02/27/2016 - Accreditation with Full Standards Compliance

Verified Trauma Program

Definitions

- No data are available

Teaching Status

Data are from multiple sources / Definitions
ACGME data are from the Graduate Medical Education Database, Copyright 2005, American Medical Association, Chicago, Illinois.
See FREIDA OnLine for more / Last Update
COTH data are from the Association of American Medical Colleges / Division of Health Care Affairs / Council of Teaching Hospitals
See COTH website for more / Last Updated 09/29/2016

- Teaching status = Yes / Number of interns and Residents = 4 FTEs

Inpatient Utilization Statistics by Medical Service

Definitions

	Number Medicare Inpatients	Average Length of Stay	Average Charges	Medicare Case Mix Index (CMI)
Cardiology	267	4.12	$13,509	1.1217
Cardiovascular Surgery	49	3.76	$41,158	2.5683
Medicine	556	4.88	$15,157	1.3409
Neurology	30	5.23	$14,460	1.1964
Oncology	17	4.24	$13,513	1.4130
Orthopedic Surgery	82	4.13	$28,311	2.1566
Orthopedics	25	4.16	$9,596	1.0600
Psychiatry	113	9.68	$10,121	0.9663
Pulmonology	380	5.02	$15,649	1.2415
Surgery	116	8.52	$35,306	3.2908
Urology	122	4.20	$13,635	1.2601
Vascular Surgery	19	3.16	$19,112	2.1155
Total	1,791	5.18	$17,144	1.4580

Inpatient Origin for Top 3 Zip Codes

Medicare Hospital Market Service Area File for calendar year ending 12/31/2016 / Definitions

ZIP Code of Residence	Discharges	Days of Care	Charges	Discharges Inc/(Dec)	Market Share
14760	713	3,634	$12,775,591	-9.7%	68.4%
14706	198	961	$3,162,218	26.9%	65.1%
14779	192	1,037	$3,490,823	-26.2%	52.9%

Outpatient Utilization Statistics by APC

Definitions

APC Number	APC Description	Number Patient Claims	Average Charge	Average Cost
8011	Comprehensive Observation Services	408	$796	$129
5024	Level 4 Type A ED Visits	2,015	$735	$120
5012	Level 2 Examinations and Related Services	6,123	$127	$306
5491	Level 1 Intraocular Procedures	303	$1,285	$306
5623	Level 3 Radiation Therapy	671	$1,266	$249
5312	Level 2 Lower GI Procedures	466	$1,438	$342
9209	Laronidase injection	29	$94	$25
0948	Gamunex-C/Gammaked	13	$168	$44
5023	Level 3 Type A ED Visits	1,417	$417	$68
5122	Level 2 Musculoskeletal Procedures	91	$1,832	$436
5593	Level 3 Nuclear Medicine and Related Services	218	$2,884	$536
5301	Level 1 Upper GI Procedures	350	$1,084	$258
5223	Level 3 Pacemaker and Similar Procedures	22	$2,128	$507

APC Number	APC Description	Number Patient Claims	Average Charge	Average Cost
9453	Injection, nivolumab	29	$80	$21
5025	Level 5 Type A ED Visits	384	$828	$135
5361	Level 1 Laparoscopy	42	$3,478	$828
5622	Level 2 Radiation Therapy	712	$483	$95
5188	Diagnostic Cardiac Catheterization	64	$6,624	$1,351
5192	Level 2 Endovascular Procedures	18	$19,223	$4,003
5594	Level 4 Nuclear Medicine and Related Services	117	$3,216	$597

Beds and Patient Days by Unit

Definitions

	Available Beds	Inpatient Days
HOSPITAL (including swing beds)		
Routine Services	136	17,569
Special Care	14	2,128
Nursery		1,542
Total Hospital	164	29,559

Financial Statistics

Definitions

	$	%
Gross Patient Revenue	$273,583,044	98.0
Non-Patient Revenue	$5,685,129	2.0
Total Revenue	$279,268,173	
Net Income (or Loss)	$-2,960,607	-1.1

Use a five-year view of Profile statistics to spot trends
More Information | Sample Report

pennsylvania
DEPARTMENT OF HEALTH

717-783-8980

July 25, 2018

Mr. Timothy Finan, Chief Executive Officer
Olean General Hospital d/b/a Bradford Regional Medical Center
116 Interstate Parkway
Po Box 218
Bradford, PA 16701

Dear Mr. Finan:

The Department of Health is in receipt of your requests for exceptions to 28 Pa. Code §§ 103.1, 103.3, 103.4, 103.31, 107.1, 107.11, 107.25, 107.31, 146.1, 109.2, 117.2, 115.11, relating to hospital requirements, principle for an organized governing body, medical staff, director of nursing, emergency services, medical records, and infection control.

Your requests were published in the Pennsylvania Bulletin. No comments were received.

The Exceptions Committee reviewed your request at the regular meeting held on June 20, 2018. The results of that review are as follows:

As an initial matter, it should be noted that the situation BRMC has presented is novel, and it should not be assumed that any further or similar requests for exceptions will be granted until such time has elapsed that the Department can evaluate the impact of these exceptions on the operations of the requestor and the Department. The Department does not permit multiple hospital licenses to be held by a single corporate entity and is not inclined to approve multiple hospital licenses being held by a single entity as a regular practice at this time. As with all exceptions, they may be revoked by the Department for any justifiable reason and with sufficient notice. 28 Pa. Code § 101.14. The Department cannot grant exceptions to any applicable statutory requirement.

The request for an exception to 28 Pa Code § 103.1, which requires a licensed hospital to have an organized governing body or designated person vested with ownership who shall assume the full legal authority and responsibility for the conduct of the hospital, has been granted. BRMC shares a governing body with Olean General Hospital (OGH) as part of a single corporate entity, making an exception necessary. As a condition of the exception, the Department will require the Board to devote a designated part of each meeting to perform the governing body functions required in the Pennsylvania hospital regulations specifically with regard to BRMC. None of the regulatory functions or requirements applicable to the governing body are waived or excepted. Matters specific to BRMC will be specifically recorded in the Board meeting minutes as such. The hospitals are separately licensed, so the Department expects BRMC to maintain separate meeting minutes which will be made available at BRMC. To the extent that there are issues which are pertinent to both facilities, it

is expected that those minutes will be fully transcribed in the BRMC minutes.

The request for an exception to 28 Pa. Code § 103.3(10)(iii) is deemed unnecessary since BRMC is able to comply with it. BRMC's continued compliance with the commitment to conduct at least one meeting of the Board in Bradford and to publish the meeting in the Bradford local is necessary for BRMC's to remain in regulatory compliance. Additionally, compliance with the regulation in accordance with the meeting and notice as described by BRMC is considered by the Department to be a condition to the granting of all of the exceptions requested and granted herein. Failure to comply with the condition, as with all of the conditions stated herein, may cause the Department to revoke some or all of the exceptions granted.

The request for an exception to 28 Pa Code § 103.31 is granted subject to conditions. It is understood that Timothy Finan is the CEO of OGH. BRMC is required to have a full-time person assigned who acts in the place of the CEO, regardless of title. OGH has designated Melissa Sullivan as the Chief Administrative Officer (CAO) of BRMC. The CAO will devote herself full time to the administration of BRMC and will be physically present there in accordance with the mandate to perform the required functions of a CEO found at 103.33 with regard to the day-to-day operations of BRMC. The CAO will further make herself available at BRMC as may be required by emergency events and will have full decision-making authority for BRMC in such events if that becomes necessary. The individual CAO may be replaced with an appropriate person; the remaining requirements will continue to be applicable as a condition of this exception.

The request for a single medical staff for OGH and BRMC, requiring an exception to 28 Pa. Code § 107.1, is granted subject to conditions. As with the shared board, the executive committee of the medical staff is essentially a shared decision-making body. It will ensure that separate minutes are kept for both BRMC and OGH. Decisions which affect BRMC will be considered separately in a designated part of the medical staff executive committee meeting and will be recorded as such. The matters which affect both BRMC and OGH may be repeated in both sets of minutes. Further, all of the clinical activities of BRMC physicians will be tracked, monitored and evaluated specific to BRMC. It is understood that the medical staff will be subject to a single set of bylaws; however, it is not necessary to grant the exception requests for 28 Pa. Code §§ 107.11, 107.25 and 107.31. Those sections remain applicable to BRMC, and BRMC is able to comply with them subject to the grant of the exception for Section 107.1 and the conditions imposed herein. It is understood that clinical privileges will be campus specific.

The request for an exception to 28 Pa. Code 109.2, which requires a hospital to have a full-time director of nursing, is deemed to be unnecessary given the stated intent to have a full-time DON at BRMC and would not be granted in any case. Continued compliance with this requirement is both

necessary for BRMC's continued regulatory compliance and is considered to be a condition applicable to the grant of all of the exceptions granted and discussed herein.

BRMC has stated its understanding that it must have its own individual Patient Safety Committee and Patient Safety Officer. This is a statutory requirement of the MCARE Act and cannot be waived or otherwise modified by the Department. Noncompliance with this requirement will result in action against BRMC's license, as well as applicable sanctions under the MCARE Act.

[redacted]

The remaining requests for exceptions from 28 Pa. Code § 117.2, requiring an Emergency Service Plan based on community need and hospital capability, and Section 115.11, requiring a medical record service, are not necessary. BRMC can comply with these in the absence of an exception. It is understood by the Department that OGH and BRMC share an electronic medical records system. The Department expects that medical records will be fully accessible at BRMC, secure from unauthorized access, and compliant with applicable state and federal laws and regulations regarding privacy and security. BRMC has represented that its patient bill of rights is available on the BRMC website and meets all Pennsylvania regulatory requirements.

NOTE: The exceptions granted by the Department address the state requirements only. If you are Certified by CMS for Medicare and Medicaid, or plan to seek certification, you are responsible to ensure that the facility remains in compliance with the Conditions of Participation or Conditions of Coverage. The exceptions requested and granted by the Department will not be transferred to a new owner should a change of ownership occur.

The Department of Health reserves the right to revoke the exceptions for justifiable reason. A copy of this letter must remain on file in the facility. Should you require further information or have questions, please contact the Division of Acute and Ambulatory Care at (717) 783-8980.

Respectfully,

Garrison E. Gladfelter, Jr.
Director, Division of Acute and Ambulatory Care

cc: Legal Department
Bob Jackson, HFQE Supervisor
Exceptions File

Date of mailing: 7/25/18

mln FACT SHEET
KNOWLEDGE • RESOURCES • TRAINING

PRINT-FRIENDLY VERSION

MEDICARE DISPROPORTIONATE SHARE HOSPITAL

Target Audience: Medicare Fee-For-Service Program (also known as Original Medicare)

The Hyperlink Table, at the end of this document, provides the complete URL for each hyperlink.

Learn about these Medicare Disproportionate Share Hospital (DSH) topics:

- Background
- Methods to qualify for the Medicare DSH adjustment
- Medicare Prescription Drug, Improvement, and Modernization Act (MMA) provisions that impact Medicare DSHs
- Affordable Care Act provision that impacts Medicare DSHs
- Counting number of beds and patient days in hospital
- Medicare DSH payment adjustment formulas
- Resources
- Lists of helpful websites and Regional Office Rural Health Coordinators

BACKGROUND

Section 9105 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) amended Section 1886(d)(5) of the Social Security Act (the Act) to add new subparagraph (F), known as the DSH adjustment provision, which is effective for discharges occurring on or after May 1, 1986.

CMS CENTERS FOR MEDICARE & MEDICAID SERVICES
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METHODS TO QUALIFY FOR THE MEDICARE DSH ADJUSTMENT

A hospital can qualify for the Medicare DSH adjustment by using either the primary method or the alternate special exception method.

1. Primary Method

The primary method for qualifying for the Medicare DSH adjustment:

- Applies to hospitals that serve a significantly disproportionate number of low-income patients and
- Is based on the disproportionate patient percentage (DPP)

The DPP is equal to the sum of the percentage of Medicare inpatient days (including Medicare Advantage inpatient days) attributable to patients entitled to both Medicare Part A and Supplemental Security Income (SSI) (including patient days not covered under Part A and patient days in which Part A benefits are exhausted) and the percentage of total inpatient days attributable to patients eligible for Medicaid but not entitled to Medicare Part A.

Medicare DPP

Medicare DPP	$\frac{\text{Medicare/Supplemental Security Income Days}}{\text{Total Medicare Days}} + \frac{\text{Medicaid, Non-Medicare Days}}{\text{Total Patient Days}}$

If a hospital's DPP equals or exceeds a specified threshold amount, the hospital qualifies for the Medicare DSH adjustment. The Medicare DSH adjustment is determined by using a complex formula (the applicable formula is also based on a hospital's particular DPP).

2. Alternate Special Exception Method

The alternate special exception method for qualifying for the Medicare DSH adjustment applies to hospitals that:

- Are located in an urban area
- Have 100 or more beds and
- Can demonstrate that more than 30 percent of their total net inpatient care revenues come from State and local government sources for indigent care (other than Medicare or Medicaid)

These hospitals are also known as Pickle hospitals as defined under Section 1886(d)(5)(F)(i)(II) of the Act. If a hospital qualifies under this method, it is eligible for a specific Medicare DSH adjustment.

MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT (MMA) PROVISIONS THAT IMPACT MEDICARE DSHs

Section 402 of the MMA also amended Section 1886(d)(5)(F) of the Act so that under the primary qualifying method, for discharges occurring on or after April 1, 2004, the Medicare DSH payment adjustment percentage formulas for large, urban hospitals apply to additional types of hospitals (thereby increasing the DSH payment adjustment percentage for hospitals such as rural hospitals with fewer than 500 beds and urban hospitals with fewer than 100 beds).

In addition, Section 402 of the MMA imposed a 12 percent cap on the DSH payment adjustment for certain hospitals. Hospitals classified as Rural Referral Centers (RRCs), urban hospitals with 100 or more beds, and hospitals located in rural areas with 500 or more beds are exempt from the cap.

Under the primary qualifying method, the formulas to establish a hospital's Medicare DSH payment adjustment percentage are based on certain hospital-specific information, including its:

- Geographic designation (urban or rural)
- Number of beds and
- Status as a RRC

AFFORDABLE CARE ACT PROVISION THAT IMPACTS MEDICARE DSHs

Section 3133 of the Affordable Care Act amends the Act to revise the method for computing the Medicare DSH adjustment for discharges occurring on or after October 1, 2013. The computation includes:

1. Instead of the amount that would otherwise be paid as the DSH adjustment, hospitals receive 25 percent of the amount determined under the current Medicare DSH payment method beginning in fiscal year (FY) 2014 (for discharges occurring on or after October 1, 2013).
2. The remainder, equal to 75 percent of what otherwise would have been paid as Medicare DSH, becomes available for an uncompensated care payment after the amount is reduced for changes in the percentage of individuals who are uninsured. The Centers for Medicare & Medicaid Services (CMS) is currently using uncompensated care costs reported on Worksheet S-10 in combination with insured low income days (the sum of Medicaid days and Medicare SSI days) to develop hospital uncompensated care payments. Each hospital eligible for Medicare DSH payments receives an uncompensated care payment based on its relative share of total uncompensated care costs and low income days reported by Medicare DSHs.

COUNTING NUMBER OF BEDS AND PATIENT DAYS IN HOSPITAL

Under the Code of Federal Regulations (CFR) at 42 CFR 412.106(a)(1)(i), the number of beds in a hospital is determined, in accordance with the regulation at 42 CFR 412.105(b), by dividing the number of available bed days during the cost reporting period by the number of days in the cost

reporting period. Effective October 1, 2012, beds used for inpatient ancillary labor/delivery services are included in the bed count available for Inpatient Prospective Payment System (IPPS)-level acute care hospital services.

In addition, for purposes of Medicare DSH, the number of patient days in a hospital includes only those days attributable to units or wards of the hospital furnishing acute care services generally payable under the Acute Care Hospital IPPS and excludes patient days associated with beds in:

- Excluded distinct part hospital units
- Counted as outpatient observation, skilled nursing swing bed, or inpatient hospice services
- Units or wards that are not occupied to furnish a level of care under the IPPS at any time during the 3 preceding months and
- Units or wards otherwise occupied that could not be made available for inpatient occupancy within 24 hours for 30 consecutive days

MEDICARE DSH PAYMENT ADJUSTMENT FORMULAS

Under Section 1886(d)(5)(F) of the Act, additional Medicare DSH payments are made under the IPPS to acute care hospitals that serve a large number of low-income patients or to hospitals that qualify as Pickle hospitals. The disproportionate share adjustment percentage for a Pickle hospital is equal to 35 percent. The adjustment formulas under the primary qualifying method are not applicable to Pickle hospitals. A hospital is eligible for a Medicare DSH payment under the primary qualifying method when its DPP meets or exceeds 15 percent.

Medicare DSH Payment Adjustment Formulas for Hospitals Qualifying Under the Primary Method (for a complete list of rules and adjustments, refer to 42 CFR 412.106(d))

STATUS/LOCATION	NUMBER OF BEDS	THRESHOLD	ADJUSTMENT FORMULA
URBAN HOSPITALS	0–99 Beds	≥15%, ≤20.2%	2.5% + [.65 x (DPP – 15%)] **Not to Exceed 12%**
URBAN HOSPITALS	0–99 Beds	≥20.2%	5.88% + [.825 x (DPP – 20.2%)] **Not to Exceed 12%**
URBAN HOSPITALS	100 or More Beds	≥15%, ≤20.2%	2.5% + [.65 x (DPP – 15%)] **No Cap**
URBAN HOSPITALS	100 or More Beds	≥20.2%	5.88% + [.825 x (DPP – 20.2%)] **No Cap**
RURAL REFERRAL CENTERS	N/A	≥15%, ≤20.2%	2.5% + [.65 x (DPP – 15%)] **No Cap**
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Medicare DSH Payment Adjustment Formulas for Hospitals Qualifying Under the Primary Method (for a complete list of rules and adjustments, refer to 42 CFR 412.106(d)) (cont.)

STATUS/LOCATION	NUMBER OF BEDS	THRESHOLD	ADJUSTMENT FORMULA
OTHER RURAL HOSPITALS	0–499 Beds	≥15%, ≤20.2%	2.5% + [.65 x (DPP – 15%)] **Not to Exceed 12%**
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OTHER RURAL HOSPITALS	500 or More Beds	≥20.2%	5.88% + [.825 x (DPP – 20.2%)] **No Cap**

Example: Hospital A has 62 beds and is located in an urban area. In FY 2005, it had 5,000 total patient days, 1,000 Medicaid/non-Medicare days, 2,000 Medicare Part A days, and 300 Medicare Part A/SSI days. Hospital A's Medicare DPP is 35 percent.

Medicare DPP Calculation and Corresponding Payment Adjustment Calculation Under the Primary Qualifying Method

Medicare DPP	300 Medicare/Supplemental Security Income Days / 2,000 Total Medicare Days	+	1,000 Medicaid, Non-Medicare Days / 5,000 Total Patient Days	=	.35

Because Hospital A is located in an urban area, has fewer than 100 beds, and has a DPP of more than 20.2 percent, the formula for determining the Medicare DSH adjustment is:

5.88% + [.825 x (DPP – 20.2%)]

5.88% + [.825 x (35% – 20.2%)]

5.88% + 12.21% = 18.09%

Urban hospitals with fewer than 100 beds are subject to a maximum DSH adjustment of 12 percent. Hospital A's Medicare DSH adjustment is 12 percent.

DSHs may also qualify for a low-volume hospital payment adjustment.

RESOURCES

Medicare DSH Resources

For More Information About…	Resource
Medicare DSH	CMS.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh.html Chapter 3 of the Medicare Claims Processing Manual (Publication 100-04)
All Available Medicare Learning Network® (MLN) Products	MLN Catalog
Medicare Information for Patients	Medicare.gov

Hyperlink Table

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Medicare Claims Processing Manual	https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c03.pdf
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HELPFUL WEBSITES

American Hospital Association Rural Health Care

http://www.aha.org/advocacy-issues/rural

Critical Access Hospitals Center

https://www.cms.gov/Center/Provider-Type/Critical-Access-Hospitals-Center.html

Disproportionate Share Hospitals

https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh.html

Federally Qualified Health Centers Center

https://www.cms.gov/Center/Provider-Type/Federally-Qualified-Health-Centers-FQHC-Center.html

Health Resources and Services Administration

https://www.hrsa.gov

Hospital Center

https://www.cms.gov/Center/Provider-Type/Hospital-Center.html

Medicare Learning Network®

http://go.cms.gov/MLNGenInfo

National Association of Community Health Centers

http://www.nachc.org

National Association of Rural Health Clinics

https://narhc.org

National Rural Health Association

https://www.ruralhealthweb.org

Rural Health Clinics Center

https://www.cms.gov/Center/Provider-Type/Rural-Health-Clinics-Center.html

Rural Health Information Hub

https://www.ruralhealthinfo.org

Swing Bed Providers

https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/SwingBed.html

Telehealth

https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth

Telehealth Resource Centers

https://www.telehealthresourcecenter.org

U.S. Census Bureau

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REGIONAL OFFICE RURAL HEALTH COORDINATORS

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mln FACT SHEET
KNOWLEDGE • RESOURCES • TRAINING

PRINT-FRIENDLY VERSION

MEDICARE DISPROPORTIONATE SHARE HOSPITAL

Target Audience: Medicare Fee-For-Service Program (also known as Original Medicare)

The Hyperlink Table, at the end of this document, provides the complete URL for each hyperlink.

Learn about these Medicare Disproportionate Share Hospital (DSH) topics:

- Background
- Methods to qualify for the Medicare DSH adjustment
- Medicare Prescription Drug, Improvement, and Modernization Act (MMA) provisions that impact Medicare DSHs
- Affordable Care Act provision that impacts Medicare DSHs
- Counting number of beds and patient days in hospital
- Medicare DSH payment adjustment formulas
- Resources
- Lists of helpful websites and Regional Office Rural Health Coordinators

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Medicare DPP

Medicare DPP	$\frac{\text{Medicare/Supplemental Security Income Days}}{\text{Total Medicare Days}} + \frac{\text{Medicaid, Non-Medicare Days}}{\text{Total Patient Days}}$

If a hospital's DPP equals or exceeds a specified threshold amount, the hospital qualifies for the Medicare DSH adjustment. The Medicare DSH adjustment is determined by using a complex formula (the applicable formula is also based on a hospital's particular DPP).

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HELPFUL WEBSITES

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U.S. Census Bureau

https://www.census.gov

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LAUREN M. MASSUCCI

ERIC W. SPRINGER (OF COUNSEL)
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JOSHUA HODGES
KATIE E. PAKLER
CRAIG M. GLASGOW

VIA E-MAIL

January 9, 2018

Nancy Lescavage
Deputy Secretary
Pennsylvania Department of Health
Room 532, Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120

Re: Bradford Hospital – Request for Single Medicare Provider Number After Merger with Olean General Hospital

Dear Deputy Secretary Lescavage:

At the request of Attorney Tanya Leshko from the Department's Legal Office, I am writing to you to formally request that the Department of Health inform CMS that it would agree to a reciprocal agreement with the State of New York relative to CMS survey and certification activities relative to Olean General Hospital and Bradford Hospital once the planned merger of Bradford Hospital into Olean General Hospital takes place. This would allow the merged facilities to be treated as a single hospital with a single Medicare provider number after the merger and realize the substantial benefits that are outlined below. There is some urgency in this request because we need to close by this coming Friday, January 12, 2018 in order to be eligible for the 340-B drug discount described below, which would make a difference of several hundred thousand dollars in savings for the merged hospitals over the next six months.

As you may know, representatives of the DeBrunner Group have been discussing this with the Department, your counterparts at the New York Department of Health and CMS since the Fall of 2017. There was also a conference call to discuss this in detail with Department representatives on November 16, 2017. It is my understanding that the New York Department of Health has no objection to entering into a reciprocal agreement with Pennsylvania, and that CMS would not object if both States agreed.

Under this arrangement, survey teams for full CMS surveys would be comprised of surveyors from each State concurrently surveying the location(s) in their respective State (i.e., New York surveyors would survey Olean General and Pennsylvania surveyors would survey Bradford). The States would need to address how complaints will be handled. Based on the information we have, this should not be much different in terms of what the Department does now for CMS surveys and complaints. I would call to your attention that both hospitals hold deemed status with CMS by virtue of their accreditation status, which would obviate the need for regular full surveys except in the event of a complaint.

The merger of the two hospitals will result in the following significant financial benefits for Bradford Hospital and the community that it serves:

Increased Medicare Reimbursement		
Sole Community Hospital Status	$1,255,000	
Disproportionate Share Status	$ 64, 055	
Medical Education Offset	$ (19,416)	
Total		$1,299,709
Increased 340B Program Discounts		$500,000-$750,000
Debt-related savings		
Pay-down of $5,000,000 debt	$ 240,000	
Refinance @ 1% lower interest	$ 80,000	
Total		$320,000
Expense Efficiencies (audit fees, etc.)		$ 50,000
TOTAL ANNUAL FINANCIAL BENEFIT		$2,169,709 to $2,419,709

The increased Medicare reimbursement described above hinges on having as single Medicare provider number as does the increased 340B drug discount savings. However, due to timetables established by the HRSA Office of Pharmacy Affairs, the hospitals must consummate the merger by this Friday, January 12, 2018 or wait until the second half of the year to qualify for the 340B discounts, thus forfeiting hundreds of thousands of dollars in savings that could otherwise be realized.

We would therefore respectfully request that the Department indicate its willingness to enter into a reciprocal agreement with the New York Department of Health to allow the two hospitals to have a single Medicare provider number after they merge.

I would appreciate your response as soon as possible. Please let me know if you have any questions.

Sincerely,

Daniel M. Mulholland III

cc: Tanya Leshko, Esquire

266793

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HEALTH

July 17, 2018

Dr. Lauren Reinertsen
Associate Regional Administrator
Northeast Division Survey & Certification
Room 37-130, 26 Federal Plaza
New York, New York 10278-0063

RE: Olean General Hospital

Dear Dr. Reinertsen:

I am writing to you regarding Olean General Hospital (OGH), located at 515 Main Street, Olean, NY which operates Bradford Regional Medical Center (BRMC) located at 116 Interstate Parkway, Bradford, PA as a remote campus. The CEO of Upper Allegheny Health System, under whose auspices OGH operates, has informed the Pennsylvania Department of Health (PADOH) that BRMC is running out of funds due to a continued inability to bill and obtain reimbursement from the Centers for Medicare & Medicaid Services (CMS).

The understanding of PADOH with regard to the CMS position on OGH/BRMC, has been and continues to be, that CMS approved of the arrangement between the two hospitals if the arrangement did not violate the laws of the states in which the facilities are located and the states could come to an informal agreement regarding the handling of federal surveys. It was ultimately determined that BRMC could continue to operate in compliance with applicable Pennsylvania licensure laws and regulations.

New York State Department of Health (NYDOH) and PADOH are working in good faith to develop a survey plan by July 20th, 2018 that will address survey operations between the two states. It is anticipated that the Departments will be able to agree on a process that will satisfy the needs of all concerned.

Please let me know at your earliest convenience what additional information is required so that services provided at BRMC can be reimbursed by CMS. If you have additional questions or concerns, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

Nancy J. Lescavage

Nancy J. Lescavage
Deputy Secretary for Quality Assurance

cc: Tim Finan, President and CEO
Upper Allegheny Health System

Deputy Secretary for Quality Assurance
625 Forster Street | Health & Welfare Building, 8th Floor West | Harrisburg, PA 17120-0701 | 717.783.1078 | Fax 717.525.5506 | www.health.pa.gov

From: Gladfelter, Garrison
To: Chronister, Ann
Subject: FW: Bradford Regional Medical Center (541201 / 390118)
Date: Wednesday, July 25, 2018 3:54:23 PM
Attachments: image001.gif
image002.gif

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fyi
Thanks,
Garrison

Garrison E. Gladfelter Jr. | Chief, Division of Acute and Ambulatory Care
Pennsylvania Department of Health | Bureau of Facility Licensure and Certification
Room 532 Health & Welfare Building
625 Forster Street | Harrisburg, PA 17120-0701
Phone: 717.783.8980 | Fax: 717.705.6663
www.health.state.pa.us

From: Goodwin, Monica (CMS/CQISCO) <Monica.Cramer@cms.hhs.gov>
Sent: Wednesday, July 25, 2018 2:59 PM
To: Larson, Jennifer <jelarson@pa.gov>
Cc: Gladfelter, Garrison <ggladfelte@pa.gov>; Jackson, Robert F <robejackso@pa.gov>
Subject: RE: Bradford Regional Medical Center (541201 / 390118)

Thanks Jennifer

Monica C. Goodwin
CMS Region 3
Certification and Enforcement Branch
Phone: 215-861-4223
Fax: (443) 380-5702
My work days are Monday- Thursday.
*The Philadelphia Regional Office (RO III) has moved. Our new address is Centers for Medicare and Medicaid Services, 801 Market Street, Suite 9400, Philadelphia, PA 19107-3134.

From: Larson, Jennifer [mailto:jelarson@pa.gov]
Sent: Wednesday, July 25, 2018 2:53 PM
To: Goodwin, Monica (CMS/CQISCO) <Monica.Cramer@cms.hhs.gov>
Cc: Gladfelter, Garrison <ggladfelte@pa.gov>; Jackson, Robert F <robejackso@pa.gov>
Subject: Bradford Regional Medical Center (541201 / 390118)

Good afternoon,
Attached is the completed CMS-1539 and supporting documents for Bradford's CHOW. It is also a request for the termination for the facility's CCN 390118. If you have any questions, please let me know.
Thanks.

Jennifer E. Larson ½ Clerk Typist 2
Department of Health ½ Bureau of Facility Licensure & Certification
11 Stanwix Street Room 410 ½ Pittsburgh, PA 15222
Phone: 412.258.1472 ½ Fax: 412.880.0447

www.health.pa.gov
jelarson@pa.gov

From: Ben DeBrunner
To: Chronister, Ann; Baker, Shannon
Subject: FW: New York and Pennsylvania Multi-State Merger
Date: Tuesday, December 5, 2017 3:44:38 PM
Attachments: DOCSHSM1-#265473-v1-Olean-Bradford_reciprocal_agreement.docx
som107_exhibit_289.pdf

Good afternoon.

I wanted to send a quick follow up so see if you had received my email from the 27th. I'm not sure I wrote down Ann's email address correctly during our call. As a reminder, this is related to an upcoming merger between Olean General Hospital in New York state and Bradford Regional Medical center in Pennsylvania. On November 17th, we discussed the hospital's desire to seek joint Medicare certification for the merged hospital and the potential obstacles to that joint certification that may exist. During that call, I promised to follow up by providing something in writing from CMS regarding whether such a merger is possible, and to look for a document that could be used as a starting point in establishing how the Departments of Health in New York and Pennsylvania might structure an agreement to coordinate survey and certification related activities.

I'm hoping that the information I shared in my email from the 27th will provide enough information for us to have another discussion about whether and how we might be able to move forward. Given CMS's willingness to approve a multi-state hospital certification, and the precedent that exists for Home Health and Hospice agencies, I'm hopeful that we'll be able figure out a process that will allow the hospital to be certified as a single entity without causing additional administrative burden for you and your staff. I know that those of us working at and for the hospital can make ourselves available for another discussion later this week or next week, as it suits you. Please feel free to share my email with anyone else you think is appropriate, and thank you again for your time and assistance.

-Ben

From: Ben DeBrunner
Sent: Monday, November 27, 2017 9:40 AM
To: 'achroniste@pa.gov' <achroniste@pa.gov>; 'shanbaker@pa.gov' <shanbaker@pa.gov>
Cc: 'Dan Mulholland' <DMulholland@hortyspringer.com>; Craig M. Glasgow <CGlasgow@hortyspringer.com>; Ellen Kugler <ellen@debrunner.us>; 'shanbaker@pa.gov' <shanbaker@pa.gov>
Subject: FW: New York and Pennsylvania Multi-State Merger

Good morning, Ann.

Per our discussion before Thanksgiving, I asked that someone at the CMS regional office write down their position on a multi-state hospital merger, since it isn't directly addressed in existing CMS guidance. Monica Goodwin shared the email below in response to that request. Regarding precedent for coordination between departments of health in different state, as you will see, Monica is also looking into whether similar arrangements already exist in other regions. In the meantime, we wanted to provide the attached Exhibit 239 as well as a modified version tailored to this merger. That exhibit comes from the state operations manual and is a model for how state certification agencies can cooperate for certifying Home Health and Hospice agencies that span multiple states. The model language designates a primary state that would be responsible for the bulk of the coordination activities. Since the surviving provider number in this proposed merger would be Olean General Hospital in New York, we think it would make sense for New York state to

be the primary state in this agreement. We hope that this arrangement would minimize the additional administrative burden for Pennsylvania that seemed like it may have been a concern when we first discussed this issue. Thank you again for taking the time to have a call with us. We are happy to make ourselves available for another call late this week or early next week once you've had a chance to review these materials.
Hope you had a great Thanksgiving.
-Ben

From: Goodwin, Monica (CMS/CQISCO) [mailto:Monica.Cramer@cms.hhs.gov]
Sent: Wednesday, November 22, 2017 1:28 PM
To: Ben DeBrunner <ben@debrunner.us>
Subject: RE: New York and Pennsylvania Multi-State Merger

Good afternoon, Ben,
I have asked for a contact in the NY RO. I'll let you know as soon as I have someone. In the meantime, here is some information about multi-State hospitals.
CMS would not immediately reject the proposed arrangement. That said, any decision to allow a hospital to operate in multiple States is at the discretion of each applicable State. Each State needs to determine if it is consistent with their State's laws. Survey team for full surveys will be comprised of surveyors from each State concurrently surveying those location(s) in their State. If either State does not agree or indicates that it is not consistent with State laws, the arrangement would not be allowed. The RO(s) would want documentation from the respective States that the arrangement is consistent with their licensing laws and that they agree to survey responsibility for the location(s) in their States.
The States would need to have an agreement regarding survey responsibilities, including how complaints will be handled in the PA location. Exhibit 239 that you attached is a very good starting place. I am also checking with other Regions on whether they have multi-State hospitals and if so, what type of agreements the States have.
Some other points to consider:

- Any hospital provider must comply with the conditions of participation as 1 entity in all locations
- In order to operate in 2 or more adjoining States, the hospital must comply with each State's licensing laws- a State's licensing laws apply only to those locations within the State, not those locations in another State.
- All health care professionals must be licensed in both States (or have reciprocity) if:
    - They work in hospital locations in both States, or
    - They have assigned professional responsibility in both States (for example: DON, Medical Director, Anesthesia, Emergency Services, Chief of Staff, Rehab Director)
        - This includes MD/DOs that have hospital-wide responsibilities (those who must be responsible for a service that is provided in both States) under the conditions of participation
- Additionally, all Medical staff must have privileges at the main location of the hospital. Therefore, all medical staff at the location across state lines must be licensed (or have reciprocity) in the State where the main location is located.
- The provider-based requirements at 42 CFR 413.65 apply.

I hope this information is helpful.
Monica

Monica C. Goodwin
Certification and Enforcement Branch
Phone: 215-861-4223

From: Goodwin, Monica (CMS/CQISCO)
To: Gladfelter, Garrison; Chronister, Ann
Subject: FW: Olean-Bradford
Date: Monday, August 6, 2018 7:53:51 AM

Good morning,
The Olean –Bradford acquisition was completed last week.

Monica C. Goodwin
CMS Region 3
Certification and Enforcement Branch
Phone: 215-861-4223
Fax: (443) 380-5702
My work days are Monday- Thursday.

*The Philadelphia Regional Office (RO III) has moved. Our new address is Centers for Medicare and Medicaid Services, 801 Market Street, Suite 9400, Philadelphia, PA 19107-3134.

From: Rocco, Roxanne (CMS/CQISCO)
Sent: Friday, August 3, 2018 12:42 PM
To: Goodwin, Monica (CMS/CQISCO) <Monica.Cramer@cms.hhs.gov>
Subject: FW: Olean-Bradford

FYI

Roxanne Rocco
Manager, Certification and Enforcement Branch
Northeast Division of Survey & Certification
Centers for Medicare & Medicaid Services
801 Market Street, Suite 9400
Philadelphia, PA 19107-3134.
Phone: (215) 861-4180
Fax: (443)-380-7539

From: Reinertsen, Lauren (CMS/CQISCO)
Sent: Friday, August 3, 2018 12:36 PM
To: Rocco, Roxanne (CMS/CQISCO) <Roxanne.Rocco@cms.hhs.gov>
Cc: Zambrano, Mitzi (CMS/CQISCO) <Mitzi.Zambrano@cms.hhs.gov>
Subject: Olean-Bradford

Rocki-
The Bradford acquisition by Olean was finalized yesterday. Mitzi can give you any documents you need for your records or answer any questions. You can also let PA know. Thank you for your assistance with this.

Lauren D. Reinertsen M.P.A, Ph.D.
Associate Regional Administrator
Northeast Division Survey & Certification
Centers for Medicare & Medicaid Services
26 Federal Plaza- Room 37-130, NY NY 10278
Phone: 212-616-2432 Fax:(443) 380-5176
Lauren.Reinertsen@cms.hhs.gov

From:	Lescavage, Nancy
To:	lauren.reinertsen@cms.hhs.gov
Cc:	deirdre.astin@health.ny.gov; roxanne.rocco@cms.hhs.gov; Monica.Cramer@cms.hhs.gov; Taylor, Alison; Leshko, Tanya (GC); Chronister, Ann; Baker, Shannon; Boateng, Sarah
Subject:	FW: Upper Allegheny Health System CMS Notification
Date:	Tuesday, July 17, 2018 3:19:55 PM
Attachments:	Final Bradford.Olean CMS Notification 7 17 2018.pdf
Importance:	High

Dr. Reinertsen,

Enclosed is the letter you requested during our telecon yesterday, July 16th. I hope this will bring about an expedited release of CMS funds to the newly merged Bradford Regional Medical Center into Olean General Hospital. I have heard from Mr. Timothy J. Finan, President and CEO of Upper Allegheny Health System that Bradford is "out of cash" and his need is "urgent" due to this payment (CMS) interruption. Additionally I have heard from Bradford's CFO as well. I would appreciate immediate resolution to this dire situation. We have done everything that has been requested and await your response. Thank you. Nancy

Nancy J. Lescavage | Deputy Secretary
Department of Health | Quality Assurance
8th Floor West, Health & Welfare Building
625 Forster St. | Harrisburg, PA 17120-0701
Phone: 717.783.1078 | www.health.pa.gov

From: Lescavage, Nancy
To: Leshko, Tanya (GC); Chronister, Ann
Cc: Baker, Shannon
Subject: Fwd: Bradford Regional Medical Center/URGENT
Date: Thursday, July 12, 2018 4:09:48 PM
Attachments: image001.jpg

[redacted]

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_____

From: Finan, Timothy J. <tfinan@uahs.org>
Sent: Thursday, July 12, 2018 4:04 PM
Subject: Bradford Regional Medical Center/URGENT
To: Lescavage, Nancy <nalescavag@pa.gov>
Cc: 'Dan Mulholland' <dmulholland@hortyspringer.com>, Braun, Richard G. <rbraun@uahs.org>

Dear Deputy Secretary Lescavage:
I need to make an urgent request of you. You will recall that few months ago we met with you, Secretary Levine and other members of the Department's leadership team to discuss getting the Pennsylvania Department of Health to work with its counterpart in New York to sign a cooperation agreement relative to CMS certification issues. It was our understanding based on our communications after the call that the Department was amenable to this. We learned this week that CMS Region 2 in NY will not permit payment to Bradford Regional Medical Center by Medicare until it gets written notice from both states that they are OK with the merger of BRMC into Olean General Hospital and until the two states sign a cooperation agreement . Unfortunately, because of this payment interruption, BRMC is out of cash. This will soon impact our ability to provide patient care. Our legal counsel worked with yours in May to develop a letter requesting certain exceptions from the hospital licensing regulations required by the Department required for new merged . We are still awaiting a response to our request. I would welcome the opportunity to speak with you as soon as possible about this dire situation and request your assistance in resolving this matter as quickly as we can. Thank you for your attention to this matter. -- TF

Timothy J. Finan
President and CEO
Upper Allegheny Health System
130 S. Union Street
Olean, New York 14760
tfinan@uahs.org

UAHS RGB 1_line

From: Dan Mulholland
To: Leshko, Tanya (GC)
Cc: Lescavage, Nancy; Chronister, Ann; Gladfelter, Garrison
Subject: Re: Bradford
Date: Thursday, January 11, 2018 1:18:18 PM

Thanks Tanya. We will be in touch about the CMS issue next week.

Sent from parts unknown
My cell [redacted]

> On Jan 11, 2018, at 12:16 PM, Leshko, Tanya (GC) <tleshko@pa.gov> wrote:
>
> Hello Dan. You have submitted everything the Department needs to approve the CHOW and grant a license to the new owner. As we have previously discussed, I do not know what the ultimate resolution of the CMS issue will be. I am representing to you specifically that the license application is complete and a license can issue, which will be dated as of the date of the closing. Once the closing is complete, please notify Janine Mohammed of same and copy me.
>
> I received your message and will be calling your cell phone. Please call with further questions. Thank you.
>
>
> Tanya C. Leshko| Senior Counsel
> Pennsylvania Department of Health
> Office of Legal Counsel
> Health and Welfare Building, Room 825
> 625 Forster Street | Harrisburg, PA 17120
> Phone: 717.783.2500 | Fax: 717.705.6042
> https://na01.safelinks.protection.outlook.com/?
url=www.health.pa.gov&data=02%7C01%7Cachroniste%40pa.gov%7Cf57a48f5530f4d12420308d5591f9b81%7C418e284101284dd59b6c47fc5a9a1bde%7C1%7C0%7C636512914660177650&sdata=ARL9tTCe%2Fd3VI%2Bc61KIb3FzjYA04m8vlRqrjUoQuu6U%3D&reserved=0
>
>
>
> -----Original Message-----
> From: Dan Mulholland [mailto:DMulholland@hortyspringer.com]
> Sent: Thursday, January 11, 2018 12:56 PM
> To: Leshko, Tanya (GC) <tleshko@pa.gov>
> Subject: Bradford
>
> Hi Tanya. I received the Deputy Secretary's letter and we are working to get a response. However it may take longer than today to provide a detailed response to her questions. Is there any way that you could confirm that change of control and license issues have been resolved so we can consummate the merger this week then address the CMS issue next week in a more deliberate manner? Thanks
>
> Sent from parts unknown
> My cell [redacted]

From:	Ben DeBrunner
To:	Chronister, Ann
Subject:	RE: New York and Pennsylvania Multi-State Merger
Date:	Monday, December 18, 2017 4:45:24 PM
Attachments:	image001.png image002.png

Hi Ann.
I wanted to ask you how the meeting with NY DOH went today. I can make myself available for a phone call tomorrow, if you think that would be the easiest way to catch up.

From: Chronister, Ann [mailto:achroniste@pa.gov]
Sent: Friday, December 15, 2017 9:33 AM
To: Ben DeBrunner <ben@debrunner.us>
Subject: RE: New York and Pennsylvania Multi-State Merger
Good Morning,

Thank you for checking in with me. Yes, we are aware of the meeting on the 18th and I think we have everything we need for now.
Luckily, the snow hasn't been too bad – so far.
Have a great weekend,
Ann

From: Ben DeBrunner [mailto:ben@debrunner.us]
Sent: Thursday, December 14, 2017 10:51 AM
To: Chronister, Ann <achroniste@pa.gov>
Subject: RE: New York and Pennsylvania Multi-State Merger
Good Morning, Ann.
I heard from my counterpart in NY that Ruth Leslie at NY DOH told him that she plans to bring up this issue at a joint call between NY and PA DOH on the 18th. I just wanted to check in to make sure that your office was aware of the meeting and to offer to provide any additional information that you think might be helpful. Hope the snow wasn't too bad for you this morning.
-Ben

From: Chronister, Ann [mailto:achroniste@pa.gov]
Sent: Wednesday, December 6, 2017 8:52 AM
To: Ben DeBrunner <ben@debrunner.us>; Baker, Shannon <shanbaker@pa.gov>
Subject: RE: New York and Pennsylvania Multi-State Merger
Good Morning,
Thank you, yes, I received your email. We are still discussing internally. If we need additional information or have any questions, we will let you know.

Thank you again,
Ann

Ann Chronister | Director
Pennsylvania Department of Health | Bureau of Facility Licensure and Certification
Room 526 Health & Welfare Building
625 Forster Street | Harrisburg, PA 17120-0701
Phone: 717.787.8015 | Fax: 717.705.7298
www.health.pa.gov

From: Ben DeBrunner [mailto:ben@debrunner.us]
Sent: Tuesday, December 05, 2017 3:41 PM
To: Chronister, Ann <achroniste@pa.gov>; Baker, Shannon <shanbaker@pa.gov>
Subject: FW: New York and Pennsylvania Multi-State Merger

Good afternoon.

I wanted to send a quick follow up so see if you had received my email from the 27th. I'm not sure I wrote down Ann's email address correctly during our call. As a reminder, this is related to an upcoming merger between Olean General Hospital in New York state and Bradford Regional Medical center in Pennsylvania. On November 17th, we discussed the hospital's desire to seek joint Medicare certification for the merged hospital and the potential obstacles to that joint certification that may exist. During that call, I promised to follow up by providing something in writing from CMS regarding whether such a merger is possible, and to look for a document that could be used as a starting point in establishing how the Departments of Health in New York and Pennsylvania might structure an agreement to coordinate survey and certification related activities.

I'm hoping that the information I shared in my email from the 27th will provide enough information for us to have another discussion about whether and how we might be able to move forward. Given CMS's willingness to approve a multi-state hospital certification, and the precedent that exists for Home Health and Hospice agencies, I'm hopeful that we'll be able figure out a process that will allow the hospital to be certified as a single entity without causing additional administrative burden for you and your staff. I know that those of us working at and for the hospital can make ourselves available for another discussion later this week or next week, as it suits you. Please feel free to share my email with anyone else you think is appropriate, and thank you again for your time and assistance.

-Ben

From: Ben DeBrunner
Sent: Monday, November 27, 2017 9:40 AM
To: 'achroniste@pa.gov' <achroniste@pa.gov>; 'shanbaker@pa.gov' <shanbaker@pa.gov>
Cc: 'Dan Mulholland' <DMulholland@hortyspringer.com>; Craig M. Glasgow <CGlasgow@hortyspringer.com>; Ellen Kugler <ellen@debrunner.us>; 'shanbaker@pa.gov' <shanbaker@pa.gov>
Subject: FW: New York and Pennsylvania Multi-State Merger

Good morning, Ann.

Per our discussion before Thanksgiving, I asked that someone at the CMS regional office write down their position on a multi-state hospital merger, since it isn't directly addressed in existing CMS guidance. Monica Goodwin shared the email below in response to that request. Regarding precedent for coordination between departments of health in different state, as you will see, Monica is also looking into whether similar arrangements already exist in other regions. In the meantime, we wanted to provide the attached Exhibit 239 as well as a modified version tailored to this merger. That exhibit comes from the state operations manual and is a model for how state certification agencies can cooperate for certifying Home Health and Hospice agencies that span multiple states. The model language designates a primary state that would be responsible for the bulk of the coordination activities. Since the surviving provider number in this proposed merger would be Olean General Hospital in New York, we think it would make sense for New York state to

be the primary state in this agreement. We hope that this arrangement would minimize the additional administrative burden for Pennsylvania that seemed like it may have been a concern when we first discussed this issue. Thank you again for taking the time to have a call with us. We are happy to make ourselves available for another call late this week or early next week once you've had a chance to review these materials.
Hope you had a great Thanksgiving.
-Ben

From: Goodwin, Monica (CMS/CQISCO) [mailto:Monica.Cramer@cms.hhs.gov]
Sent: Wednesday, November 22, 2017 1:28 PM
To: Ben DeBrunner <ben@debrunner.us>
Subject: RE: New York and Pennsylvania Multi-State Merger

Good afternoon, Ben,
I have asked for a contact in the NY RO. I'll let you know as soon as I have someone. In the meantime, here is some information about multi-State hospitals.
CMS would not immediately reject the proposed arrangement. That said, any decision to allow a hospital to operate in multiple States is at the discretion of each applicable State. Each State needs to determine if it is consistent with their State's laws. Survey team for full surveys will be comprised of surveyors from each State concurrently surveying those location(s) in their State. If either State does not agree or indicates that it is not consistent with State laws, the arrangement would not be allowed. The RO(s) would want documentation from the respective States that the arrangement is consistent with their licensing laws and that they agree to survey responsibility for the location(s) in their States.
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        - This includes MD/DOs that have hospital-wide responsibilities (those who must be responsible for a service that is provided in both States) under the conditions of participation
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- The provider-based requirements at 42 CFR 413.65 apply.

I hope this information is helpful.
Monica

Monica C. Goodwin
Certification and Enforcement Branch
Phone: 215-861-4223

From:	Goodwin, Monica (CMS/CQISCO)
To:	Gladfelter, Garrison; Chronister, Ann
Subject:	RE: Olean-Bradford
Date:	Monday, August 6, 2018 9:15:28 AM
Attachments:	330103-390118merger.pdf

And here is the approval letter, for your records.

Monica C. Goodwin
CMS Region 3
Certification and Enforcement Branch
Phone: 215-861-4223
Fax: (443) 380-5702
My work days are Monday- Thursday.
*The Philadelphia Regional Office (RO III) has moved. Our new address is Centers for Medicare and Medicaid Services, 801 Market Street, Suite 9400, Philadelphia, PA 19107-3134.

From: Goodwin, Monica (CMS/CQISCO)
Sent: Monday, August 6, 2018 7:54 AM
To: Garrison E. Gladfelter Jr. (ggladfelte@pa.gov) <ggladfelte@pa.gov>; Chronister, Ann (achroniste@pa.gov) <achroniste@pa.gov>
Subject: FW: Olean-Bradford

Good morning,

The Olean –Bradford acquisition was completed last week.

Monica C. Goodwin
CMS Region 3
Certification and Enforcement Branch
Phone: 215-861-4223
Fax: (443) 380-5702
My work days are Monday- Thursday.
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From: Rocco, Roxanne (CMS/CQISCO)
Sent: Friday, August 3, 2018 12:42 PM
To: Goodwin, Monica (CMS/CQISCO) <Monica.Cramer@cms.hhs.gov>
Subject: FW: Olean-Bradford

FYI

Roxanne Rocco
Manager, Certification and Enforcement Branch
Northeast Division of Survey & Certification
Centers for Medicare & Medicaid Services
801 Market Street, Suite 9400
Philadelphia, PA 19107-3134.
Phone: (215) 861-4180
Fax: (443)-380-7539

From: Reinertsen, Lauren (CMS/CQISCO)
Sent: Friday, August 3, 2018 12:36 PM
To: Rocco, Roxanne (CMS/CQISCO) <Roxanne.Rocco@cms.hhs.gov>
Cc: Zambrano, Mitzi (CMS/CQISCO) <Mitzi.Zambrano@cms.hhs.gov>

Subject: Olean-Bradford

Rocki-

The Bradford acquisition by Olean was finalized yesterday. Mitzi can give you any documents you need for your records or answer any questions. You can also let PA know. Thank you for your assistance with this.

Lauren D. Reinertsen M.P.A, Ph.D.
Associate Regional Administrator
Northeast Division Survey & Certification
Centers for Medicare & Medicaid Services
26 Federal Plaza- Room 37-130, NY NY 10278
Phone: 212-616-2432 Fax:(443) 380-5176
Lauren.Reinertsen@cms.hhs.gov

From: Leslie, Ruth W (HEALTH)
To: Chronister, Ann
Subject: RE: quick question - contact info.
Date: Tuesday, March 20, 2018 10:48:18 AM

Hi Ann, sorry for the delay in responding to you. I spoke with my Deputy Commissioner who asked me to please have the first conversation with Ms. Lescavage and report back to him. My contact information is located on my signature block below.

Ruth Leslie

Director
Division of Hospitals and Diagnostic & Treatment Centers
Office of Primary Care and Health Systems Management
New York State Department of Health
875 Central Avenue
Albany, NY 12206
ph: 518.402.1004 | ruth.leslie@health.ny.gov
http://www.health.ny.gov

From: Chronister, Ann [mailto:achroniste@pa.gov]
Sent: Thursday, March 15, 2018 1:22 PM
To: Leslie, Ruth W (HEALTH) <ruth.leslie@health.ny.gov>
Subject: quick question - contact info.
Importance: High

Hi Ruth,
Quick question for you. I report to the Deputy Secretary of Quality Assurance for the Department of Health, Nancy Lescavage. She was interested in reaching out to her peer in NY to discuss the Bradford/Olean merger. Who is the correct person for her to contact and could you please share the contact information?
Thanks!
Ann

Sole Community Hospitals (SCHs)

SCHs can receive operating payments based on the higher of their hospital-specific payment rate or the Federal rate, while their capital payments are solely based on the capital base rate (like all other IPPS hospitals). Medicare makes SCH payments based on which of these yields the greatest aggregate payment for the cost reporting period:

- The IPPS Federal rate applicable to the hospital
- The updated hospital-specific rate based on FY 1982 costs per discharge
- The updated hospital-specific rate based on FY 1987 costs per discharge
- The updated hospital-specific rate based on FY 1996 costs per discharge
- The updated hospital-specific rate based on FY 2006 costs per discharge

SCHs may also qualify for a payment adjustment if they experience a significant volume decrease. For more information about the volume decrease payment adjustment, refer to the Code of Federal Regulations (CFR) at 42 CFR 412.92(e).

A hospital paid under the Medicare IPPS is eligible for classification as a SCH if it meets **one** of these criteria:

1) The hospital is located at least 35 miles from other like hospitals
2) The hospital is rural, located between 25 and 35 miles from other like hospitals, **and** meets **one** of these criteria:
   - No more than 25 percent of residents who become hospital inpatients or no more than 25 percent of the Medicare beneficiaries who become hospital inpatients in the hospital's service area are admitted to other like hospitals located within a 35-mile radius of the hospital or, if larger, within its service area
   - The hospital has fewer than 50 beds and would meet the 25 percent criterion above if not for the fact that some beneficiaries or residents were forced to seek specialized care outside of the service area due to the unavailability of necessary specialty services at the hospital
3) The hospital is rural and located between 15 and 25 miles from other like hospitals but because of local topography or periods of prolonged severe weather conditions, the other like hospitals are inaccessible for at least 30 days in each of 2 out of 3 years
4) The hospital is rural and because of distance, posted speed limits, and predictable weather conditions, the travel time between the hospital and the nearest like hospital is at least 45 minutes

A like hospital:

- Furnishes short-term, acute care
- Is paid under the Medicare Acute Care Hospital IPPS
- Is not a Critical Access Hospital

A hospital's service area is the area from which it draws at least 75 percent of its inpatients during the most recent 12-month cost reporting period ending before it applies for classification as a SCH.

Certain hospitals formerly designated as Essential Access Community Hospitals (EACHs) are also treated as SCHs for payment purposes under the IPPS. For more information about EACHs, refer to 42 CFR 412.109.

Medicare Dependent Hospitals (MDHs)

MDHs can receive operating payments based on the higher of the Federal rate or a blended rate based, in part, on each of these rates: the Federal rate and their hospital-specific payment rate. Their capital payments are solely based on the capital base rate. MDHs may also qualify for a payment adjustment if they experience a significant volume decrease.