Medicare Fact Sheet on Displaced Residents Due to Program or Hospital Closure
(August 2023)

The Medicare regulations at 42 CFR 413.79(h) provide for temporary resident cap adjustments to hospitals that take in residents displaced by program or hospital closure. The Affordable Care Act (ACA) section 5506 provides for permanent preservation and redistribution of residency slots from closed hospitals.

Closure of a Hospital (closed hospital) – termination of Medicare provider agreement under 42 CFR 489.52.
Closure of a hospital residency program (Closed Program) – the hospital ceases to offer training for residents in a particular approved medical residency training program.

Where Can the Residents Go?
Any hospital that is willing to take them in; there is NO geographic restriction.

Home hospital – the hospital that is closing/programs are closing
Receiving hospital – the hospital that is taking in displaced resident(s)

Payment
Receiving hospital is paid for the displaced resident using its own direct GME and IME factors, that is, the same rates as those used for residents in its own programs (66 FR 39901 August 1, 2001).

Determining Number of Medicare Resident Cap Slots Available for Transfer
The maximum number of resident cap slots that can be transferred to a receiving hospital (i.e., the hospital that takes in a displaced resident(s)) is the number of IME and direct GME resident cap slots belonging to the hospital that has the closed program or that is closing. Therefore, if the closing hospital is training residents in excess of its cap, then being a displaced resident does NOT guarantee that a cap slot will be transferred along with that resident. A closure situation does not grant the Medicare program the authority to fund *additional* residency slots over the cap amount at the home hospital. (Also note that only to the extent a receiving hospital would exceed its FTE cap by training displaced residents would it be eligible for the temporary adjustment. (66 FR 39899, 413.79(3)(i)(B)).

Home Hospital - Determining How Much Cap to Transfer per Resident
There is NO CMS requirement that the home hospital transfer a cap slot to a receiving hospital for a displaced resident. The decision to transfer a cap slot if one is available is voluntary and made at the sole discretion of the home hospital (42 CFR 413.79(h)(3)(ii)). However, if the home hospital decides to do so, then it is the home hospital's and/or sponsor's responsibility to determine how much of an available cap slot goes with a particular resident (if any).

Temporary cap slot transfers for a particular resident can be used at more than one hospital if necessary (66 FR 39899 August 1, 2001) for the duration of the resident's training in the program, and revert to the closed hospital upon completion of his/her training. These cap slots are then considered and distributed according to section 5506 of the ACA.

This document is being provided by CMS for informational purposes and is not intended to establish or change existing law or policy, and also is not intended to substitute for the applicable law and regulations regarding Medicare payment in the circumstances of residency program or hospital closure.

If there are more displaced residents than available cap slots, the slots may be apportioned, according to the closing hospital's discretion. Suggestions for consideration include:

- the portion of time remaining in the resident's training program– a portion of an academic year, or a full academic year or more
- the portion of time the displaced resident was expected to be training at the closing hospital versus time spent away at "out rotations" at other hospitals in the nearby area, i.e., if the resident was expected to be training at the home hospital for six months of the year, the receiving hospital that takes over that training component may receive a temporary cap increase of 0.5 FTE. (See 42 CFR §§ 413.79(h)(2)(ii), (h)(3)(i)(B), and (h)(3)(ii)).

A home hospital that decides to voluntarily reduce its caps would follow the regulations at 42 CFR 413.79(h)(3)(ii), including submitting to its MAC a statement signed and dated by its representative (such as CFO or similar authority) that specifies its agreement to the temporary cap transfers, identifies the residents training at the time of the closure, and identifies the hospitals to which the residents are transferring upon program closure, and specifies the reduction for the applicable program years.

Receiving Hospital Application for the Temporary Resident Cap Increase
In the case of hospital closure, to apply for the temporary increase in the Medicare resident cap, the receiving hospital must submit a request to its Medicare Administrative Contractor no later than 60 days after beginning the training of the displaced residents (42 CFR 413.79(h)(2)(ii)). **This letter must include the names and either (1) the last 4 digits of the social security number of the displaced residents; or (2) the NPI of the displaced residents** (see 85 FR 58870, September 18, 2020), the hospital and programs in which the residents were training previously, and the amount of the cap increase needed for each resident (based on how much the receiving hospital is in excess of its caps and the length of time the adjustments are needed (42 CFR 413.79(h)(2)(ii)).

In the case of a residency program closure, the receiving hospital must submit a request to its Medicare Administrative Contractor no later than 60 days after beginning to train the displaced residents. This request must document eligibility to receive a temporary cap adjustment, and identify the residents who have come from the closed program causing the receiving hospital to exceed its cap, specify the length of time the adjustment is needed, and a copy of the FTE reduction statement by the home hospital (see 42 CFR 413.79(h)(3)(i)(B)).

ACA Section 5506: Preservation of Resident Cap Positions from Closed Hospitals
Prior to the passage of the ACA, generally, if a teaching hospital closed, its direct GME and IME FTE resident cap slots would be "lost," because those slots are associated with a specific hospital's Medicare provider agreement that has terminated. Section 5506 of the ACA addresses this situation by instructing the Secretary to establish a process by regulation that would redistribute slots from teaching hospitals that close to hospitals that meet certain criteria.

For detailed information about the criteria under section 5506 and the application process, see 75 FR 72212, November 24, 2010, 77 FR 53434, August 31, 2012, 79 FR 50122, August 22, 2014, and Section 5506: Preservation of Resident Cap Positions from Closed Hospitals .

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