

DSRIP Timelines

- The performance period for Category A, B, and D DSRIP measures is the federal fiscal year, starting October 1. The measurement year for Category C DSRIP measures is the calendar year.

Questions for CMS

- Regarding the DSRIP extension option, CMS has mentioned 30 days for the federal public comment period and a 15-day period after the federal comment period. What is CMS assuming regarding the 120-day period required under STC 7? What is CMS assuming regarding any requirements regarding state public notice and any timeline for the state's public comment period?

CMS Response:

- CMS is willing to accept an amendment request that proposes an implementation date in fewer than 120 days from submission.
- As described in STC 12, the state should follow the public notice guidance in the 1994 federal register (59 Fed Reg 49249 September 27, 1994), which provides several different options to provide notice at the state level. For example, the state could provide its stakeholders sufficient notice of the application it intends to submit by posting the application and notice within the Texas register and the state's website, and then hold at least one or two stakeholder meetings available to the public. The state should also follow its state plan tribal consultation process.

After CMS receives the application and determines it is complete and has met the requirements described in regulation, CMS will initiate a 30-day federal public comment period.

- Based on required timelines, it does not seem possible for a DSRIP extension to be approved before October 1, which is the start of the performance period for certain DSRIP measures. Will DSRIP funding be available for performance starting October 1 if a waiver amendment were approved after October 1? What is CMS' position as to the issues created by STC 6 which does not appear to allow for retroactive approvals and does not allow for FFP for retroactive approvals?

CMS Response:

- DSRIP funding would be available upon approval of an amendment for performance within DY11. Section 1115 expenditure authority is not approved retroactively.

- Will CMS approve flexibilities in demonstrating DSRIP achievement and determining payment for 2021 and 2022 due to the ongoing COVID-19 public health emergency? Without flexibilities, DSRIP participating providers will be unable to earn available DSRIP funding due to changes in health care access and utilization that are outside of their control.

CMS Response:

- CMS is willing to consider flexibilities in DSRIP reporting that are informed by demonstrated PHE conditions in the state for the applicable performance period of time.
- Will CMS please confirm that the existing sources of non-federal share used in DSRIP (i.e., LPPFs) will be permissible for the one-year extension as well?

CMS Response:

- CMS will conduct financing reviews, including related to sources of non-federal share, outside of the one-year DSRIP extension.
- DSRIP payments would be made in federal fiscal year 2022 and 2023 for performance in Demonstration Year 11 (federal fiscal year 2022 and calendar year 2022). HHSC seeks confirmation that HHSC could continue to make DSRIP payments on the current payment schedule.

CMS Response:

- The current payment schedule would be permitted.