

**IN THE MATTER OF:**

Inland Hospital )  
c/o William Stiles, Esq. )  
VerrillDana LLP ) **FINAL DECISION**  
One Portland Square )  
Portland, ME 04112-0586 )

This is the Department of Health and Human Services' Final Decision.

The Recommended Decision of Hearing Officer LeBlanc, dated May 19, 2005 and the responses and exceptions filed by the Department have been reviewed.

I hereby adopt the Findings of Fact of the Hearing Officer. I also adopt the Hearing Officer's determination that the Department's interpretation of Section 45.03 of the MaineCare Manual regarding the calculation of prospective interim payments (PIP's) is correct. Specifically, the term "the most recent as-filed cost report", within the meaning of Section 45.03, means the most recently issued interim MaineCare Cost Report. This determination renders moot any controversy regarding retroactive application of the amended rule that clarified this issue.

For the reasons stated below, I decline to adopt the Hearing Officer's determination that the Department "could have, and should have, issued its Interim MaineCare Settlement Report for Inland Hospital's FYE September 28, 2002 in time to be used in the calculation of Inland Hospital's PIP for SFY 2005".

As noted in the Department's exceptions, neither the rules in place in April 2004, nor those adopted since then, impose a schedule or timetable upon the Department for issuing Interim MaineCare cost reports. The Department is entitled to exercise discretion in performing this administrative function and, as a practical matter, must be permitted to exercise discretion in order to manage budget constraints and competing priorities. The Department received Inland's As Filed Medicare Cost Report for its FYE September 2002 on April 18, 2003. Testimony at the hearing indicated that the Department began the process of calculating PIP's for SFY 2005 in late March of 2004, and the calculations were completed by the end of April, 2004. The calculations must be reviewed, and must be entered into the payment system at least here (3) weeks before the beginning of the state fiscal year (July 1). The SFY 2005 PIP calculated for Inland Hospital was based on the Final Cost Settlement Report for Inland Hospital's FYE September 2000, with an inflation adjustment of 16.4%. The Interim Maine Cost Report for Inland Hospital's FYE 2002 was issued on May 21, 2004.

I concur with the Department that given the absence of a regulatory or statutory schedule or timetable for issuing cost reports, the only issue is whether the Department acted arbitrarily or capriciously in calculating Inland Hospital's PIP for SFY 2005. No evidence was presented to indicate that the Department discriminated against Inland Hospital, or that the hospital was subjected to arbitrary or capricious treatment by the Department. The record indicates that the Department's treatment of Inland Hospital with respect to the calculation of its PIP for SFY 2005 was consistent with past practice and consistent with its treatment of the other 40 hospitals in Maine.

Therefore, for the above reasons I find that the Department's calculation of Inland Hospital's PIP for SFY 2005 was correct, and I decline to adopt the Hearing Officer's recommendation that the PIP should be recalculated.

DATED: 7/15/05 SIGNED: \_\_\_\_\_  
JOHN R. NICHOLAS, COMMISSIONER  
DEPARTMENT OF HEALTH & HUMAN SERVICES

**YOU HAVE THE RIGHT TO JUDICIAL REVIEW UNDER THE MAINE RULES OF CIVIL PROCEDURE, RULE 80C. TO TAKE ADVANTAGE OF THIS RIGHT, A PETITION FOR REVIEW MUST BE FILED WITH THE APPROPRIATE SUPERIOR COURT WITHIN 30 DAYS OF THE RECEIPT OF THIS DECISION.**

**WITH SOME EXCEPTIONS, THE PARTY FILING AN APPEAL (80B OR 80C) OF A DECISION SHALL BE REQUIRED TO PAY THE COSTS TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR PROVIDING THE COURT WITH A CERTIFIED HEARING RECORD. THIS INCLUDES COSTS RELATED TO THE PROVISION OF A TRANSCRIPT OF THE HEARING RECORDING.**

cc: Brett Witham, Esq., Verrill Dana  
Suzanne Pogue, Esq., VerrillDana  
Thomas Bradley, AAG  
Constance Warren, BMS