4. As determined from the fourth prior year audited cost report,

(a) The acute care hospital has an unsponsored care ratio of at least sixty- five percent (65%) and is licensed for less than fifty inpatient beds; or

(b) The acute care hospital has an unsponsored care ratio of at least sixty- five (65%) and is licensed for fifty inpatient beds or more and has an occupancy rate of more than forty percent (40%); or

(c) A public non-state governmental acute care hospital with a low income utilization rate (LIUR) of at least fifty percent (50%) and a Medicaid inpatient utilization rate (MIUR) greater than one standard deviation from the mean, and is licensed for fifty inpatient beds or more and has an occupancy rate of at least forty percent (40%); or

(d) The hospital is owned or operated by the Board of Curators as defined in Chapter 172, RSMo; or.

(e) The Hospital is a public hospital operated by the Department of Mental Health primarily for the care and treatment of mental disorders.

5. As determined from the fourth prior year audited cost report, hospitals which annually provide more than five thousand (5,000) Title XIX days of care and whose Title XIX nursery days represent more than fifty percent (50%) of the hospital's total nursery days.

B. Those hospitals which meet the criteria established in paragraphs VI.A.1., 2., and 4. shall be deemed Safety Net Hospitals. Those hospitals which meet the criteria established in V.A.1. and 3. shall be deemed First Tier DSH. Those hospitals which meet only the criteria established in paragraphs VI.A.1., 2., or 5. shall be deemed Second Tier DSH.

C. A hospital not meeting the requirements in subsection VI.A., but has a Medicaid inpatient utilization percentage of a least one percent (1 %) for Medicaid eligible recipients may at the option of the state be deemed a Disproportionate Share Hospital (DSH). These facilities may receive only the DSH payments identified in section XVII.