both direct and indirect costs and normal standby costs. However, if the provider’s operating costs include amounts not related to patient care, specifically not reimbursable under the program, or flowing from the provision of luxury items or services (that is, those items or services substantially in excess of or more expensive than those generally considered necessary for the provision of needed health services), such amounts will not be allowable. The reasonable cost basis of reimbursement contemplates that the providers of services would be reimbursed the actual costs of providing quality care however widely the actual costs may vary from provider to provider and from time to time for the same provider.


§ 413.13 Amount of payment if customary charges for services furnished are less than reasonable costs.

(a) Definitions. As used in this section—

Customary charges means the regular rates that providers charge both beneficiaries and other paying patients for the services furnished to them.

Fair compensation means the reasonable cost of covered services.

Nominal charge means a charge equal to 60 percent or less of the reasonable cost of a service.

Public provider means a provider operated by a Federal, State, county, city, or other local government agency or instrumentality.

Reasonable cost means cost actually incurred, to the extent that cost is necessary for the efficient delivery of the service, and subject to the exclusions specified in paragraph (d) of this section.

(b) Application of the lesser of costs or charges (LCC) principle—(1) General rule. Except as provided in paragraph (c) of this section. CMS pays providers the lesser of the reasonable cost or the customary charges for services furnished to Medicare beneficiaries. Reasonable cost and customary charges are compared separately for Part A services and Part B services.

(2) Example. (i) A provider’s reasonable cost for covered services furnished to Medicare beneficiaries during a cost reporting period is $125,000.

(ii) The provider’s customary charges for those services is $110,000.

(iii) CMS pays the provider $110,000 less the deductible and coinsurance amounts for which the beneficiaries are responsible.

(c) Exceptions to the LCC principle—(1) Providers not subject to the LCC principle. CMS pays the following providers the fair compensation for the services they furnish:

(i) CORFs.

(ii) Public providers that furnish services free of charge or at a nominal charge.

(iii) Any provider that requests payment of fair compensation and can demonstrate to its intermediary that a significant portion of its patients are low income and that its charges are less than costs because its customary practice is to charge patients on the basis of their ability to pay.

(2) Services not subject to the LCC principle. The following services are not subject to the LCC principle:

(i) Part A inpatient hospital services. Inpatient hospital services are not subject to the LCC principle if they are subject to either of the following:

(A) The prospective payment system under part 412 of this chapter.

(B) The rate of increase limits set forth in § 413.40.

(ii) Facility services related to ambulatory surgical procedures performed in outpatient hospital departments. Facility services related to ambulatory surgical procedures performed in hospital outpatient departments are subject to the payment methodology set forth in § 413.118.

(iii) Services furnished by a critical access hospital (CAH). Inpatient and outpatient services furnished by a CAH are subject to the payment methodology set forth in § 413.70.

(iv) Hospital outpatient radiology services. Hospital outpatient radiology services are subject to the payment methodology set forth in § 413.122.

(v) Other diagnostic procedures performed by a hospital on an outpatient
§ 413.17 Cost to related organizations.

(a) Principle. Except as provided in paragraph (d) of this section, costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable cost of the provider at the cost to the related organization. However, such cost must not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

(b) Definitions—(1) Related to the provider. Related to the provider means that the provider to a significant extent is associated or affiliated with or has control of or is controlled by the organization furnishing the services, facilities, or supplies.

(2) Common ownership. Common ownership exists if an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider.

(3) Control. Control exists if an individual or an organization has the...