

**Subpart N—Prospective Payment System for Inpatient Hospital Services of Inpatient Psychiatric Facilities**

SOURCE: 69 FR 66977, Nov. 15, 2004, unless otherwise noted.

**§ 412.400 Basis and scope of subpart.**

(a) *Basis.* This subpart implements section 124 of Public Law 106–113, which provides for the implementation of a per diem-based prospective payment system for inpatient hospital services of inpatient psychiatric facilities.

(b) *Scope.* This subpart sets forth the framework for the prospective payment system for the inpatient hospital services of inpatient psychiatric facilities, including the methodology used for the development of the Federal per diem rate, payment adjustments, implementation issues, and related rules. Under this system, for cost reporting periods beginning on or after January 1, 2005, payment for the operating and capital-related costs of inpatient hospital services furnished by inpatient psychiatric facilities to Medicare Part A fee-for-service beneficiaries is made on the basis of prospectively determined payment amount applied on a per diem basis.

**§ 412.402 Definitions.**

As used in this subpart—

*Closure of an IPF* means closure of a hospital as defined in § 413.79(h)(1)(i) by an IPF meeting the requirements of § 412.404(b) for the purposes of accounting for indirect teaching costs.

*Closure of an IPF's residency training program* means closure of a hospital residency training program as defined in § 413.79(h)(1)(ii) by an IPF meeting the requirements of § 412.404(b) for the purposes of accounting for indirect teaching costs.

*Comorbidity* means all specific patient conditions that are secondary to the patient's primary diagnosis and that coexist at the time of admission, develop subsequently, or that affect the treatment received or the length of stay or both. Diagnoses that relate to an earlier episode of care that have no bearing on the current hospital stay are excluded.

*Displaced resident* means a displaced resident as defined in § 413.79(h)(1)(iii) for the purposes of accounting for indirect teaching costs.

*Federal per diem base rate* means the payment based on the average routine operating, ancillary, and capital-related cost of 1 day of hospital inpatient services in an inpatient psychiatric facility.

*Federal per diem payment amount* means the Federal per diem base rate with all applicable adjustments.

*Fixed dollar loss threshold amount* means a dollar amount which, when added to the Federal payment amount for a case, the estimated costs of a case must exceed in order for the case to qualify for an outlier payment.

*Inpatient psychiatric facilities* means hospitals that meet the requirements as specified in §§ 412.22, 412.23(a), 482.60, 482.61, and 482.62, and units that meet the requirements as specified in §§ 412.22, 412.25, and 412.27.

*Inpatient psychiatric facilities prospective payment system rate year* means—

(1) Through June 30, 2011, the 12-month period of July 1 through June 30.

(2) Beginning July 1, 2011, the 15-month period of July 1, 2011 through September 30, 2012.

(3) Beginning October 1, 2012, the 12-month period of October 1 through September 30, referred to as Fiscal Year (FY).

*Interrupted stay* means a Medicare inpatient is discharged from an inpatient psychiatric facility and is admitted to any inpatient psychiatric facility within 3 consecutive calendar days following discharge. The 3 consecutive calendar days begins with the day of discharge from the inpatient psychiatric facility and ends on midnight of the third day.

*New graduate medical education program* means a medical education program that receives initial accreditation by the appropriate accrediting body or begins training residents on or after November 15, 2004.

*Outlier payment* means an additional payment beyond the Federal per diem payment amount for cases with unusually high costs.

*Principal diagnosis* means the condition established after study to be chiefly responsible for occasioning the admission of the patient to the inpatient psychiatric facility. Principal diagnosis is also referred to as the primary diagnosis.

*Qualifying emergency department* means an emergency department that is staffed and equipped to furnish a comprehensive array of emergency services and meeting the definitions of a dedicated emergency department as specified in § 489.24(b) of this chapter and the definition of “provider-based status” as specified in § 413.65 of this chapter.

*Rural area* means for cost reporting periods beginning January 1, 2005, with respect to discharges occurring during the period covered by such cost reports but before July 1, 2006, an area as defined in § 412.62(f)(1)(iii). For discharges occurring on or after July 1, 2006, rural area means an area as defined in § 412.64(b)(1)(ii)(C).

*Urban area* means for cost reporting periods beginning on or after January 1, 2005, with respect to discharges occurring during the period covered by such cost reports but before July 1, 2006, an area as defined in § 412.62(f)(1)(ii). For discharges occurring on or after July 1, 2006, urban area means an area as defined in § 412.64(b)(1)(ii)(A) and § 412.64(b)(1)(ii)(B).

[69 FR 66977, Nov. 15, 2004; 70 FR 19728, Apr. 1, 2005, as amended at 71 FR 27086, May 9, 2006; 76 FR 26465, May 6, 2011; 83 FR 38619, Aug. 6, 2018; 86 FR 42678, Aug. 4, 2021]

**§ 412.404 Conditions for payment under the prospective payment system for inpatient hospital services of psychiatric facilities.**

(a) *General requirements.* (1) Effective for cost reporting periods beginning on or after January 1, 2005, an inpatient psychiatric facility must meet the conditions of this section to receive payment under the prospective payment system described in this subpart for inpatient hospital services furnished to Medicare Part A fee-for-service beneficiaries.

(2) If an inpatient psychiatric facility fails to comply fully with these conditions, CMS may, as appropriate—

(i) Withhold (in full or in part) or reduce Medicare payment to the inpatient psychiatric facility until the facility provides adequate assurances of compliance; or

(ii) Classify the inpatient psychiatric facility as an inpatient hospital that is subject to the conditions of subpart C of this part and is paid under the prospective payment system as specified in § 412.1(a)(1).

(b) *Inpatient psychiatric facilities subject to the prospective payment system.* Subject to the special payment provisions of § 412.22(c), an inpatient psychiatric facility must meet the general criteria set forth in § 412.22. In order to be excluded from the hospital inpatient prospective payment system as specified in § 412.1(a)(1), a psychiatric hospital must meet the criteria set forth in §§ 412.23(a), 482.60, 482.61, and 482.62 and psychiatric units must meet the criteria set forth in § 412.25 and § 412.27.

(c) *Limitations on charges to beneficiaries—*(1) *Prohibited charges.* Except as permitted in paragraph (c)(2) of this section, an inpatient psychiatric facility may not charge a beneficiary for any services for which payment is made by Medicare, even if the facility’s cost of furnishing services to that beneficiary are greater than the amount the facility is paid under the prospective payment system.

(2) *Permitted charges.* An inpatient psychiatric facility receiving payment under this subpart for a covered hospital stay (that is, a stay that included at least one covered day) may charge the Medicare beneficiary or other person only the applicable deductible and coinsurance amounts under §§ 409.82, 409.83, and 409.87 of this chapter and for items or services as specified under § 489.20(a) of this chapter.

(d) *Furnishing of inpatient hospital services directly or under arrangement.* (1) Subject to the provisions of § 412.422, the applicable payments made under this subpart are payment in full for all inpatient hospital services, as specified in § 409.10 of this chapter. Hospital inpatient services do not include the following:

(i) Physicians’ services that meet the requirements of § 415.102(a) of this chapter for payment on a fee schedule basis.

(ii) Physician assistant services, as specified in section 1861(s)(2)(K)(i) of the Act.

(iii) Nurse practitioners and clinical nurse specialist services, as specified in section 1861(s)(2)(K)(ii) of the Act.

(iv) Certified nurse midwife services, as specified in section 1861(gg) of the Act.

(v) Qualified psychologist services, as specified in section 1861(ii) of the Act.

(vi) Services of a certified registered nurse anesthetist, as specified in section 1861(bb) of the Act and defined in § 410.69 of this subchapter.

(2) CMS does not pay providers or suppliers other than inpatient psychiatric facilities for services furnished to a Medicare beneficiary who is an inpatient of the inpatient psychiatric facility, except for services described in paragraphs (d)(1)(i) through (d)(1)(vi) of this section.

(3) The inpatient psychiatric facility must furnish all necessary covered services to a Medicare beneficiary who is an inpatient of the inpatient psychiatric facility, either directly or under arrangements (as specified in § 409.3 of this chapter).

(e) *Reporting and recordkeeping requirements.* All inpatient psychiatric facilities participating in the prospective payment system under this subpart must meet the recordkeeping and cost reporting requirements as specified in §§ 412.27(c), 413.20, 413.24, and 482.61 of this chapter.

[69 FR 66977, Nov. 15, 2004, as amended at 76 FR 26465, May 6, 2011]

**§ 412.405 Preadmission services as inpatient operating costs under the inpatient psychiatric facility prospective payment system.**

The prospective payment system includes payment for inpatient operating costs of preadmission services if the inpatient operating costs are for—

(a) Preadmission services otherwise payable under Medicare Part B furnished to a beneficiary on the date of the beneficiary's inpatient admission, and during the calendar day immediately preceding the date of the beneficiary's inpatient admission, to the inpatient psychiatric facility that meet the following conditions:

(1) The services are furnished by the inpatient psychiatric facility or by an entity wholly owned or wholly operated by the inpatient psychiatric facility. An entity is wholly owned by the inpatient psychiatric facility if the inpatient psychiatric facility is the sole owner of the entity. An entity is wholly operated by an inpatient psychiatric facility if the inpatient psychiatric facility has exclusive responsibility for conducting and overseeing the entity's routine operations, regardless of whether the inpatient psychiatric facility also has policymaking authority over the entity.

(2) The services are diagnostic (including clinical diagnostic laboratory tests).

(3) The services are nondiagnostic when furnished on the date of the beneficiary's inpatient admission, the services are nondiagnostic when furnished on the calendar day preceding the date of the beneficiary's inpatient admission and the hospital does not demonstrate that such services are unrelated to the beneficiary's inpatient admission, and are not one of the following:

(i) Ambulance services.

(ii) Maintenance renal dialysis services.

(b) The preadmission services are furnished on or after June 25, 2010.

[75 FR 50415, Aug. 16, 2010]

**§ 412.422 Basis of payment.**

(a) *Method of Payment.* (1) Under the inpatient psychiatric facility prospective payment system, inpatient psychiatric facilities receive a predetermined Federal per diem base rate for inpatient hospital services furnished to Medicare Part A fee-for-service beneficiaries.

(2) The Federal per diem payment amount is based on the Federal per diem base rate plus applicable adjustments as specified in § 412.424.

(3) During the transition period, payment is based on a blend of the Federal per diem payment amount as specified in § 412.424, and the facility-specific payment rate as specified in § 412.426.

(b) *Payment in full.* (1) The payment made under this subpart represents payment in full (subject to applicable

deductibles and coinsurance as specified in subpart G of part 409 of this chapter) for inpatient operating and capital-related costs associated with furnishing Medicare covered services in an inpatient psychiatric facility, but not the cost of an approved medical education program as specified in § 413.75 through § 413.85 of this chapter.

(2) In addition to the Federal per diem payment amounts, inpatient psychiatric facilities receive payment for bad debts of Medicare beneficiaries, as specified in § 413.89 of this chapter.

[69 FR 66977, Nov. 15, 2004; 70 FR 19728, Apr. 1, 2005, as amended at 76 FR 26465, May 6, 2011]

**§ 412.424 Methodology for calculating the Federal per diem payment amount.**

(a) *Data sources.* (1) To calculate the Federal per diem base rate (as specified in paragraph (b) of this section for inpatient psychiatric facilities, as specified in paragraph (b) of this section, CMS uses the following data sources:

(2) The best Medicare data available to estimate the average inpatient operating and capital-related costs per day made as specified in part 413 of this chapter.

(i) Patient and facility cost report data capturing routine and ancillary costs.

(ii) An appropriate wage index to adjust for wage differences.

(iii) An increase factor to adjust for the most recent estimate of increases in the prices of an appropriate market basket of goods and services provided by inpatient psychiatric facilities.

(b) *Determining the average per diem cost of inpatient psychiatric facilities for FY 2002.* CMS determines the average inpatient operating, ancillary, and capital-related per diem cost for which payment is made to each inpatient psychiatric facility, using the available data described in paragraph (a) of this section.

(c) *Determining the Federal per diem base rate for cost reporting periods beginning on or after January 1, 2005 through June 30, 2006—(1) General.* Payment under the inpatient psychiatric facility prospective payment system is based on a standardized per diem payment referred to as the Federal per diem base

rate. The Federal per diem base rate is the adjusted cost for 1 day of inpatient hospital services in an inpatient psychiatric facility in a base year as described in paragraph (b) of this section. The adjusted cost per day is adjusted in accordance with paragraphs (c)(2) through (c)(5) of this section.

(2) *Update of the average per diem cost.* CMS applies the increase factor described in paragraph (a)(2)(iii) of this section to the updated average per diem cost to the midpoint of the January 1, 2005 through June 30, 2006, under the update methodology described in section 1886(b)(3)(B)(ii) of the Act.

(3) *Budget neutrality.* (i) CMS adjusts the updated average per diem cost so that the aggregate payments in the first 18 months (for January 1, 2005 through June 30, 2006) under the inpatient psychiatric facility prospective payment system are estimated to equal the amount that would have been made to the inpatient psychiatric facilities under part 413 of this chapter if the inpatient psychiatric facility prospective payment system described in this subpart were not implemented.

(ii) CMS evaluates the accuracy of the budget-neutrality adjustment within the first 5 years after implementation of the inpatient psychiatric facility prospective payment system. CMS may make a one-time prospective adjustment to the Federal per diem base rate to account for significant differences between the historical data on cost-based TEFRA payments (the basis of the budget-neutrality adjustment at the time of implementation) and estimates of TEFRA payments based on actual data from the first year of the prospective payment system.

(4) *Outlier payments.* CMS determines a reduction factor equal to the estimated proportion of outlier payments described in paragraph (d)(3)(i) of this section.

(5) *Standardization.* CMS determines a reduction factor to reflect estimated increases in the Federal per diem base rate as defined in § 412.402 resulting from the facility-level and patient-level adjustments described in paragraph (d) of this section.

(6) *Computation of the Federal per diem base rate.* The Federal per diem base rate is computed as follows:

(i) For cost reporting periods beginning on or after January 1, 2005 and on or before June 30, 2006, the Federal per diem base rate is computed in accordance with paragraph (c) of this section.

(ii) For inpatient psychiatric facilities beginning on or after July 1, 2006, the Federal per diem base rate will be the Federal per diem base rate for the previous year, updated by an increase factor described in paragraph (a)(2)(iii) of this section.

(d) *Determining the Federal per diem payment amount.* The Federal per diem payment amount is the product of the Federal per diem base rate established under paragraph (c) of this section, the facility-level adjustments applicable to the inpatient psychiatric facility, patient-level adjustments and other policy adjustments applicable to the case.

(1) *Facility-level adjustments—* (i) *Adjustment for wages.* CMS adjusts the labor portion of the Federal per diem base rate to account for geographic differences in the area wage levels using an appropriate wage index.

(A) The application of the wage index is made on the basis of the location of the inpatient psychiatric facility in an urban or rural area as defined in §412.402.

(B) Beginning October 1, 2022, CMS applies a cap on decreases to the wage index, such that the wage index applied to an inpatient psychiatric facility is not less than 95 percent of the wage index applied to that inpatient psychiatric facility in the prior fiscal year.

(ii) *Rural location.* CMS adjusts the Federal per diem base rate for inpatient psychiatric facilities located in a rural area as defined in §412.402.

(iii) *Teaching adjustment.* CMS adjusts the Federal per diem base rate by a factor to account for indirect teaching costs.

(A) An inpatient psychiatric facility's teaching adjustment is based on the ratio of the number of full-time equivalent residents training in the inpatient psychiatric facility divided by the facility's average daily census.

(B) Residents with less than full-time status and residents rotating through the inpatient psychiatric facility for less than a full year will be counted in

proportion to the time they spend in the inpatient psychiatric facility.

(C) Except as described in paragraph (d)(1)(iii)(D) of this section, the actual number of current year full-time equivalent residents used in calculating the teaching adjustment is limited to the number of full-time equivalent residents in the inpatient psychiatric facility's most recently filed cost report filed with its fiscal intermediary before November 15, 2004 (base year).

(D) If the inpatient psychiatric facility first begins training residents in a new approved graduate medical education program after November 15, 2004, the number of full-time equivalent residents determined under paragraph (d)(1)(iii)(C) of this section may be adjusted using the method described in §413.79(e)(1)(i) and (ii) of this chapter.

(E) The teaching adjustment is made on a claim basis as an interim payment, and the final payment in full for the claim is made during the final settlement of the cost report.

(F) *Closure of an IPF or IPF residency training program—*(1) *Closure of an IPF.* For cost reporting periods beginning on or after July 1, 2011, an IPF may receive a temporary adjustment to its FTE cap to reflect displaced residents added because of another IPF's closure if the IPF meets the following criteria:

(i) The IPF is training additional displaced residents from an IPF that closed on or after July 1, 2011.

(ii) No later than 60 days after the IPF begins to train the displaced residents, the IPF submits a request to its Medicare contractor for a temporary adjustment to its cap, documents that the IPF is eligible for this temporary adjustment by identifying the displaced residents who have come from the closed IPF and have caused the IPF to exceed its cap, and specifies the length of time the adjustment is needed.

(2) *Closure of an IPF's residency training program.* If an IPF that closes its residency training program on or after July 1, 2011, agrees to temporarily reduce its FTE cap according to the criteria specified in paragraph (d)(1)(iii)(F)(2)(ii) of this section, another IPF(s) may receive a temporary adjustment to its FTE cap to reflect

displaced residents added because of the closure of the residency training program if the criteria specified in paragraph (d)(1)(iii)(F)(2)(i) of this section are met.

(i) *Receiving IPF(s).* For cost reporting periods beginning on or after July 1, 2011, an IPF may receive a temporary adjustment to its FTE cap to reflect displaced residents added because of the closure of another IPF's residency training program if the IPF is training additional displaced residents from the residency training program of an IPF that closed a program; and if no later than 60 days after the IPF begins to train the displaced residents, the IPF submits to its Medicare Contractor a request for a temporary adjustment to its FTE cap, documents that it is eligible for this temporary adjustment by identifying the displaced residents who have come from another IPF's closed program and have caused the IPF to exceed its cap, specifies the length of time the adjustment is needed, and submits to its Medicare contractor a copy of the FTE reduction statement by the hospital that closed its program, as specified in paragraph (d)(1)(iii)(F)(2)(ii) of this section.

(ii) *IPF that closed its program.* An IPF that agrees to train displaced residents who have been displaced by the closure of another IPF's program may receive a temporary FTE cap adjustment only if the hospital with the closed program temporarily reduces its FTE cap based on the FTE of displaced residents in each program year training in the program at the time of the program's closure. This yearly reduction in the FTE cap will be determined based on the number of those displaced residents who would have been training in the program during that year had the program not closed. No later than 60 days after the displaced residents who were in the closed program begin training at another hospital, the hospital with the closed program must submit to its Medicare contractor a statement signed and dated by its representative that specifies that it agrees to the temporary reduction in its FTE cap to allow the IPF training the displaced residents to obtain a temporary adjustment to its cap; identifies the displaced residents who were in training at the

time of the program's closure; identifies the IPFs to which the displaced residents are transferring once the program closes; and specifies the reduction for the applicable program years.

(iv) *Inpatient psychiatric facilities located in Alaska and Hawaii.* CMS adjusts the non-labor portion of the Federal per diem base rate to reflect the higher cost of living of inpatient psychiatric facilities located in Alaska and Hawaii.

(v) *Adjustment for IPF with qualifying emergency departments.* (A) CMS adjusts the Federal per diem base rate to account for the costs associated with maintaining a qualifying emergency department. A qualifying emergency department is staffed and equipped to furnish a comprehensive array of emergency services (medical and psychiatric) and meets the requirements of §§ 489.24(b) and 413.65 of this chapter.

(B) Where the inpatient psychiatric facility is part of an acute care hospital that has a qualifying emergency department as described in paragraph (d)(1)(v)(A) of this section and an individual patient is discharged to the inpatient psychiatric facility from that acute care hospital, CMS would not apply the emergency adjustment.

(vi) *Applicable percentage change for fiscal year 2014 payment determination and for subsequent years.* (A) In the case of an inpatient psychiatric facility that is paid under the prospective payment system in § 412.1(a)(2) that does not submit quality data to CMS, in the form and manner and at a time specified by CMS, the applicable annual update to a Federal standard rate is reduced by 2.0 percentage points.

(B) Any reduction in the applicable annual update to a Federal standard rate will apply only to the fiscal year involved and will not be taken into account in computing the annual payment update for a subsequent year.

(2) *Patient-level adjustments.* The inpatient psychiatric facility must identify a principal psychiatric diagnosis as specified in § 412.27(a) for each patient. CMS adjusts the Federal per diem base rate by a factor to account for the diagnosis-related group assignment associated with the principal diagnosis, as specified by CMS.

(i) *Age*. CMS adjusts the Federal per diem base rate to account for patient age based on age groupings specified by CMS.

(ii) *Diagnosis-related group assignment*. The inpatient psychiatric facility must identify a principal diagnosis as specified in § 412.27(a) for each patient. CMS adjusts the Federal per diem base rate by a factor to account for the CMS inpatient psychiatric facility prospective payment system recognized diagnosis-related group assignment associated with each patient's principal diagnosis.

(iii) [Reserved]

(iv) *Comorbidities*. CMS adjusts the Federal per diem base rate by a factor to account for certain comorbidities as specified by CMS.

(v) *Variable per diem adjustments*. CMS adjusts the Federal per diem base rate by factors as specified by CMS to account for the cost of each day of inpatient psychiatric care relative to the cost of the median length of stay.

(3) *Other adjustments*. (i) *Outlier payments*. CMS provides an outlier payment if an inpatient psychiatric facility's estimated total cost for a case exceeds a fixed dollar loss threshold amount for an inpatient psychiatric facility as defined in § 412.402 plus the Federal payment amount for the case.

(A) The fixed dollar loss threshold amount is adjusted for the inpatient psychiatric facility's adjustments for wage area, teaching, rural locations, and cost of living adjustment for facilities located in Alaska and Hawaii.

(B) The outlier payment equals a percentage of the difference between the IPF's estimated cost for the case and the adjusted threshold amount specified by CMS for each day of the inpatient stay.

(C) For discharges occurring in cost reporting periods beginning on or after January 1, 2005, outlier payments are subject to the adjustments specified at §§ 412.84(i) and 412.84(m) of this part, except that national urban and rural median cost-to-charge ratios would be used instead of statewide average cost-to-charge ratios.

(ii) *Stop-loss payments*. CMS will provide additional payments during the transition period, specified in § 412.426(a)(1) through (3), to an inpatient psychiatric facility to ensure

that aggregate payments under the prospective payment system are at least 70 percent of the amount the inpatient psychiatric facility would have received under reasonable cost reimbursement had the prospective payment system not been implemented.

(iii) *Special payment provision for interrupted stays*. If a patient is discharged from an inpatient psychiatric facility and is admitted to the same or another inpatient psychiatric facility within 3 consecutive calendar days following the discharge, the case is considered to be continuous for the purposes listed below. The 3 consecutive calendar days begins with the day of discharge from the inpatient psychiatric facility and ends on midnight of day 3.

(A) Determining the appropriate variable per diem adjustment, as specified in paragraph (d)(2)(v) of this section, applicable to the case.

(B) Determining whether the total cost for a case meets the criteria for outlier payments, as specified in paragraph (d)(3)(i)(C) of this section.

(iv) Payment for electroconvulsive therapy treatments. CMS provides an additional payment to reflect the cost of electroconvulsive therapy treatments received by a patient during an inpatient psychiatric facility stay in a manner specified by CMS.

[69 FR 66977, Nov. 15, 2004; 70 FR 16729, Apr. 1, 2005, as amended at 71 FR 27086, May 9, 2006; 76 FR 26465, May 6, 2011; 77 FR 53678, Aug. 31, 2012; 86 FR 42678, Aug. 4, 2021; 87 FR 46878, July 29, 2022]

#### § 412.426 Transition period.

(a) *Duration of transition period and composition of the blended transition payment*. Except as provided in paragraph (c) of this section, for cost reporting periods beginning on or after January 1, 2005 through December 31, 2007, an inpatient psychiatric facility receives a payment comprised of a blend of the estimated Federal per diem payment amount, as specified in § 412.424(d) of this subpart and a facility-specific payment as specified under paragraph (b) of this section.

(1) For cost reporting periods beginning on or after January 1, 2005 and before January 1, 2006, payment is based on 75 percent of the facility-specific

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payment and 25 percent is based on the Federal per diem payment amount.

(2) For cost reporting periods beginning on or after January 1, 2006 and before January 1, 2007, payment is based on 50 percent of the facility-specific payment and 50 percent is based on the Federal per diem payment amount.

(3) For cost reporting periods beginning on or after January 1, 2007 and before January 1, 2008, payment is based on 25 percent of the facility-specific payment and 75 percent is based on the Federal per diem payment amount.

(4) For cost reporting periods beginning on or after January 1, 2008, payment is based entirely on the Federal per diem payment amount.

(b) *Calculation of the facility-specific payment.* The facility-specific payment is equal to the estimated payment for each cost reporting period in the transition period that would have been made without regard to this subpart. The facility's Medicare fiscal intermediary calculates the facility-specific payment for inpatient operating costs and capital costs in accordance with part 413 of this chapter.

(c) *Treatment of new inpatient psychiatric facilities.* New inpatient psychiatric facilities, are facilities that under present or previous ownership or both have their first cost reporting period as an IPF beginning on or after January 1, 2005. New IPFs are paid based on 100 percent of the Federal per diem payment amount.

[69 FR 66977, Nov. 15, 2004; 70 FR 16729, Apr. 1, 2005, as amended at 71 FR 27087, May 9, 2006; 76 FR 26466, May 6, 2011]

### **§ 412.428 Publication of changes to the inpatient psychiatric facility prospective payment system.**

CMS will issue annually in the FEDERAL REGISTER information pertaining to changes to the inpatient psychiatric facility prospective payment system. This information includes:

(a) A description of the methodology and data used to calculate the federal per diem base payment amount for the subsequent fiscal year.

(b)(1) For discharges occurring on or after January 1, 2005 but before July 1, 2006, the update, described in § 412.424(a)(2)(iii), for the federal portion of the inpatient psychiatric facili-

ty's payments is based on the 1997-based excluded hospital with capital market basket under the applicable percentage increase methodology described in section 1886(b)(3)(B)(ii) of the Act for each year.

(2)(i) For discharges occurring on or after July 1, 2006 but before October 1, 2015, the update for the federal portion of the inpatient psychiatric facility's payment is based on the rehabilitation, psychiatric, and long-term care market basket.

(ii) For discharges occurring on or after October 1, 2015, the update of the inpatient psychiatric facility's payment is based on the inpatient psychiatric facility market basket.

(3) For discharges occurring on or after January 1, 2005 but before October 1, 2005, the update, described in § 412.424(a)(2)(iii), for the reasonable cost portion of the inpatient psychiatric facility's payment is based on the 1997-based excluded hospital with capital market basket under the updated methodology described in section 1886(b)(3)(B)(ii) of the Act for each year.

(4) For discharges occurring on or after October 1, 2005 but before July 1, 2008, the update for the reasonable cost portion of the inpatient psychiatric facility's payment is based on the 2002-based excluded hospital market basket.

(c) The best available hospital wage index and information regarding whether an adjustment to the Federal per diem base rate is needed to maintain budget neutrality.

(d) Updates to the fixed dollar loss threshold amount in order to maintain the appropriate outlier percentage.

(e) Describe the ICD–10–CM coding changes and DRG classification changes discussed in the annual update to the hospital inpatient prospective payment system regulations.

(f) Update the electroconvulsive therapy adjustment by a factor specified by CMS.

(g) Update the national urban and rural cost to charge ratio median and ceilings. CMS will apply the national cost to charge ratio to—

(1) New inpatient psychiatric facilities that have not submitted their first Medicare cost report.



(2) Inpatient psychiatric facilities whose operating or capital cost to charge ratio is in excess of 3 standard deviations above the corresponding national geometric mean.

(3) Other inpatient psychiatric facilities for which the fiscal intermediary obtains inaccurate or incomplete data with which to calculate either an operating or capital cost to charge ratio or both.

(h) Update the cost of living adjustment factor if appropriate.

[69 FR 66977, Nov. 15, 2004, as amended at 71 FR 27087, May 9, 2006; 80 FR 46726, Aug. 5, 2015; 83 FR 38619, Aug. 6, 2018]

**§412.432 Method of payment under the inpatient psychiatric facility prospective payment system.**

(a) *General rule.* Subject to the exceptions in paragraphs (b) and (c) of this section, an inpatient psychiatric facility receives payment under this subpart for inpatient operating cost and capital-related costs for each inpatient stay following submission of a bill.

(b) *Periodic interim payments (PIP).* (1) Criteria for receiving PIP.

(i) An inpatient psychiatric facility receiving payment under this subpart may receive PIP for Part A services under the PIP method subject to the provisions of §413.64(h) of this chapter.

(ii) To be approved for PIP, the inpatient psychiatric facility must meet the qualifying requirements in §413.64(h)(3) of this chapter.

(iii) A hospital that is receiving periodic interim payments also receives payment under this subpart for applicable services furnished by its excluded psychiatric unit.

(iv) As provided in §413.64(h)(5) of this chapter, intermediary approval is conditioned upon the intermediary's best judgment as to whether payment can be made under the PIP method without undue risk of resulting in an overpayment to the provider.

(2) *Frequency of payment.* For facilities approved for PIP, the intermediary estimates the annual inpatient psychiatric facility's Federal per diem prospective payments, net of estimated beneficiary deductibles and coinsurance, and makes biweekly payments equal to  $\frac{1}{26}$  of the total estimated amount of payment for the year. If the

inpatient psychiatric facility has payment experience under the prospective payment system, the intermediary estimates PIP based on that payment experience, adjusted for projected changes supported by substantiated information for the current year. Each payment is made 2 weeks after the end of a biweekly period of service as specified in §413.64(h)(6) of this chapter. The interim payments are reviewed at least twice during the reporting period and adjusted if necessary. Fewer reviews may be necessary if an inpatient psychiatric facility receives interim payments for less than a full reporting period. These payments are subject to final settlement.

(3) *Termination of PIP.* (i) *Request by the inpatient psychiatric facility.* Subject to the provisions of paragraph (b)(1)(iii) of this section, an inpatient psychiatric facility receiving PIP may convert to receiving prospective payments on a non-PIP basis at any time.

(ii) *Removal by the intermediary.* An intermediary terminates PIP if the inpatient psychiatric facility no longer meets the requirements of §413.64(h) of this chapter.

(c) *Interim payments for Medicare bad debts and for costs of an approved education program and other costs paid outside the prospective payment system.* For Medicare bad debts and for costs of an approved education program and other costs paid outside the prospective payment system, the intermediary determines the interim payments by estimating the reimbursable amount for the year based on the previous year's experience, adjusted for projected changes supported by substantiated information for the current year, and makes biweekly payments equal to  $\frac{1}{26}$  of the total estimated amount. Each payment is made 2 weeks after the end of the biweekly period of service as specified in §413.64(h)(6) of this chapter. The interim payments are reviewed at least twice during the reporting period and adjusted if necessary. Fewer reviews may be necessary if an inpatient psychiatric facility receives interim payments for less than a full reporting period. These payments are subject to final cost settlement.

(d) *Outlier payments.* Additional payments for outliers are not made on an

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interim basis. Outlier payments are made based on the submission of a discharge bill and represents final payment subject to the cost report settlement specified in § 412.84(i) and § 412.84(m) of this part.

(e) *Accelerated payments*—(1) *General rule*. Upon request, an accelerated payment may be made to an inpatient psychiatric facility that is receiving payment under this subpart and is not receiving PIP under paragraph (b) of this section if the inpatient psychiatric facility is experiencing financial difficulties because of the following:

(i) There is a delay by the intermediary in making payment to the inpatient psychiatric facility.

(ii) Due to an exceptional situation, there is a temporary delay in the inpatient psychiatric facility's preparation and submittal of bills to the intermediary beyond the normal billing cycle.

(2) *Approval of accelerated payment*. An inpatient psychiatric facility's request for an accelerated payment must be approved by the intermediary and CMS.

(3) *Amount of accelerated payment*. The amount of the accelerated payment is computed as a percent of the net payment for unbilled or unpaid covered services.

(4) *Recovery of accelerated payment*. Recovery of the accelerated payment is made by recoupment as inpatient psychiatric facility bills are processed or by direct payment by the inpatient psychiatric facility.

[69 FR 66977, Nov. 15, 2004, as amended at 76 FR 26465, May 6, 2011]

### § 412.433 Procedural requirements under the IPFQR Program.

(a) *Statutory authority*. Section 1886(s)(4) of the Act requires the Secretary to implement a quality reporting program for inpatient psychiatric hospitals and psychiatric units. Under section 1886(s)(4) of the Act, for an IPF paid under the IPF PPS that fails to submit data required for the quality measures selected by the Secretary in a form and manner and at a time specified by the Secretary, we reduce the otherwise applicable annual update to the standard Federal rate by 2.0 per-

centage points with respect to the applicable fiscal year.

(b) *Participation in the IPFQR Program*. To participate in the IPFQR Program, an IPF (as defined under § 412.402) that is paid under the IPF PPS must:

(1) Register and maintain an account on the CMS-designated information system before beginning to report data, identification of a security official is necessary to complete such registration; and

(2) Submit a notice of participation (NOP).

(c) *Withdrawal from the IPFQR Program*. An IPF may withdraw from the IPFQR Program by changing the NOP status in the secure portion of the CMS-designated information system. The IPF may withdraw at any time up to and including August 15 before the beginning of each respective payment determination year. A withdrawn IPF is subject to a reduced annual payment update as specified under paragraph (a) of this section and is mandatory to renew participation as specified in paragraph (b) of this section in order to participate in any future year of the IPFQR Program.

(d) *Submission of IPFQR Program data*. In general, except as provided in paragraph (f) of this section, IPFs that participate in the IPFQR Program must submit to CMS data on measures selected under section 1886(s)(4)(D) of the Act and specified non-measure data in a form and manner, and at a time specified by CMS.

(e) *Quality measure updates, retention, and removal*—(1) *General rule for updates to quality measures*. CMS uses rulemaking to make substantive updates to the specifications of measures used in the IPFQR Program

(2) *General rule for the retention of quality measures*. Quality measures adopted for the IPFQR Program measure set for a previous payment determination year are retained for use in subsequent payment determination years, except when they are removed, suspended, or modified as set forth in paragraph (3) of this section.

(3) *Measure removal, suspension, or modification through the rulemaking process*. CMS will use the regular rulemaking process to remove, suspend, or

modify quality measures in the IPFQR Program to allow for public comment.

(i) *Factors for consideration in removal or replacement of quality measures.* CMS will weigh whether to remove or modify measures based on the following factors:

(A) Factor 1: Measure performance among IPFs is so high and unvarying that meaningful distinctions and improvements in performance can no longer be made;

(B) Factor 2: Measure does not align with current clinical guidelines or practice;

(C) Factor 3: Measure can be replaced by a more broadly applicable measure (across settings or populations) or a measure that is more proximal in time to desired patient outcomes for the particular topic;

(D) Factor 4: Measure performance or improvement does not result in better patient outcomes;

(E) Factor 5: Measure can be replaced by a measure that is more strongly associated with desired patient outcomes for the particular topic;

(F) Factor 6: Measure collection or public reporting leads to negative unintended consequences other than patient harm;

(G) Factor 7: Measure is not feasible to implement as specified; and

(H) Factor 8: The costs associated with a measure outweigh the benefit of its continued use in the program.

(ii) *Retention.* CMS may retain a quality measure that meets one or more of the measure removal factors described in paragraph (i) of this subsection if the continued collection of data on the quality measure would align with other CMS and HHS policy goals, align with other CMS programs, or support efforts to move IPFs toward reporting electronic measures.

(f) *Extraordinary circumstances exception.* CMS may grant an exception to one or more data submissions deadlines and requirements in the event of extraordinary circumstances beyond the control of the IPF, such as when an act of nature affects an entire region or locale or a systemic problem with one of CMS's data collection systems directly or indirectly affects data submission. CMS may grant an exception as follows:

(1) Upon request by the IPF.

(2) At the discretion of CMS. CMS may grant exceptions to IPFs that have not requested them when CMS determines that an extraordinary circumstance has occurred.

(g) *Public reporting of IPFQR Program data.* Data that an IPF submits to CMS for the IPFQR Program will be made publicly available on a CMS website after providing the IPF an opportunity to review the data to be made public. IPFs will have a period of 30 days to review and submit corrections to errors resulting from CMS calculations prior to the data being made public.

[88 FR 51161, Aug. 2, 2023]

**§412.434 Reconsideration and appeals procedures of Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program decisions.**

(a) An inpatient psychiatric facility may request reconsideration of a decision by CMS that the inpatient psychiatric facility has not met the requirements of the IPFQR Program for a particular fiscal year. An inpatient psychiatric facility must submit a reconsideration request to CMS no later than 30 days from the date identified on the IPFQR Program Annual Payment Update Notification Letter provided to the inpatient psychiatric facility.

(b) A reconsideration request must contain the following information:

(1) The inpatient psychiatric facility's CMS Certification Number (CCN);

(2) The name of the inpatient psychiatric facility;

(3) Contact information for the inpatient psychiatric facility's chief executive officer and QualityNet security official, including each individual's name, email address, telephone number, and physical mailing address;

(4) A summary of the reason(s), as set forth in the IPFQR Program Annual Payment Update Notification Letter, that CMS concluded the inpatient psychiatric facility did not meet the requirements of the IPFQR Program;

(5) A detailed explanation of why the inpatient psychiatric facility believes that it complied with the requirements of the IPFQR Program for the applicable fiscal year; and

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(6) Any evidence that supports the inpatient psychiatric facility's reconsideration request, such as emails and other documents.

(c) An inpatient psychiatric facility that is dissatisfied with a decision made by CMS on its reconsideration request may file an appeal with the Provider Reimbursement Review Board under part 405, subpart R of this chapter.

[77 FR 53678, Aug. 31, 2012, as amended at 86 FR 42678, Aug. 4, 2021]

### Subpart O—Prospective Payment System for Long-Term Care Hospitals

SOURCE: 67 FR 56049, Aug. 30, 2002, unless otherwise noted.

#### § 412.500 Basis and scope of subpart.

(a) *Basis.* This subpart implements the following:

(1) Section 123 of Public Law 106–113, which provides for the implementation of a prospective payment system for long-term care hospitals described in section 1886(d)(1)(B)(iv) of the Act.

(2) Section 307 of Public Law 106–554, which states that the Secretary shall examine and may provide for appropriate adjustments to that system, including adjustments to DRG weights, area wage adjustments, geographic reclassification, outliers, updates, and disproportionate share adjustments consistent with section 1886(d)(5)(F) of the Act.

(3) Section 114 of Public Law 110–173, which contains several provisions regarding long-term care hospitals, including the—

(i) Amendment of section 1886 of the Act to add a new subsection (m) that references section 123 of Public Law 106–113 and section 307(b) of Public Law 106–554 for the establishment and implementation of a prospective payment system for payments under title XVIII for inpatient hospital services furnished by a long-term care hospital described in section 1886(d)(1)(B)(iv) of the Act; and

(ii) Revision of the standard Federal rate for RY 2008.

(4) Section 4302(a) of Public Law 111–5, which amended sections 114(c) and

(d) of Public Law 110–173 relating to several moratoria on the establishment of new long-term care hospitals and satellite facilities and on the increase in the number of beds in existing long-term care hospitals and satellite facilities under the long-term care hospital prospective payment system.

(5) Sections 3106(a) and 10312(a) of Public Law 111–148, which extended certain payment rules and moratoria under the long-term care hospital prospective payment system by further amending sections 114(c) and (d) of Public Law 110–173.

(6) Section 1206 of Public Law 113–67, which further extended certain payment rules and moratoria under the long-term care hospital prospective payment system by amending sections 114(c) and (d) of Public Law 110–173, and which:

(i) Added a new section 1886(m)(6) to the Act to establish a site neutral payment amount for long-term care hospital discharges that fail to meet the applicable criteria in cost reporting periods beginning on or after October 1, 2015; and

(ii) Requires the Secretary's review of the payment rates and regulations governing long-term care hospitals established under section 1886(d)(1)(B)(iv)(II) of the Act and application of payment adjustments based on that review.

(7) Section 411 of Public Law 114–10 which revises the annual update to the LTCH PPS standard Federal payment rate in FY 2018.

(8) Public Law 114–255 which at—

(i) Section 15004 amended the moratorium on increasing beds in existing LTCHs and LTCH satellite facilities and amended high cost outlier payment requirements;

(ii) Section 15006 amended moratoria on certain payment policies;

(iii) Section 15007 amended the average length of stay requirements;

(iv) Section 15009 temporally excepted certain spinal cord specialty hospitals from the site neutral payment rate; and

(v) Section 15010 temporally excepted certain wound care discharges from certain LTCHs from the site neutral payment rate.