

§§ 419.84–419.89 [Reserved]

**Subpart J—Payments to Rural
Emergency Hospitals (REHs)**

SOURCE: 87 FR 72292, Nov. 23, 2022, unless otherwise noted.

§ 419.90 Basis and scope of subpart.

(a) *Basis.* This subpart implements sections 1861(kkk) and 1834(x) of the Act, which establish the rural emergency hospital Medicare provider type and the payment requirements applying to such entities.

(b) *Scope.* This subpart describes the methodologies used to determine payment for REH services and the monthly facility payment amount paid to REHs.

§ 419.91 Definitions.

As used in this subpart—

Rural emergency hospital or REH means an entity as defined in § 485.502 of this chapter.

Rural emergency hospital (REH) services means all covered outpatient department (OPD) services, as defined in section 1833(t)(1)(B) of the Act, excluding services described in section 1833(t)(1)(B)(ii), furnished by an REH that would be paid under the outpatient prospective payment system (OPPS) when provided in a hospital paid under the OPPS for outpatient services, provided that such services are furnished consistent with the conditions of participation at §§ 485.510 through 485.544 of this chapter.

§ 419.92 Payment to rural emergency hospitals.

(a) *Payment for REH services—(1) Medicare payment.* A rural emergency hospital that furnishes a REH service on or after January 1, 2023, is paid an amount equal to the amount of payment that would otherwise apply under section 1833(t) of the Act for the equivalent covered OPD service, increased by 5 percent.

(2) *Beneficiary copayment.* The beneficiary copayment for a REH service is the amount determined under section 1833(t)(8) of the Act for the equivalent covered OPD service, excluding the 5

percent payment increase described in paragraph (a)(1) of this section.

(b) *Monthly facility payment.* Effective January 1, 2023, REHs are paid a monthly facility payment equal to $\frac{1}{12}$ of the annual additional facility payment amount described in paragraphs (b)(1) and (2) of this section.

(1) *Calculation of monthly facility payment for 2023.* For calendar year 2023, the annual additional facility payment amount is:

(i) The total amount that the Secretary determines was paid by the Medicare program and from beneficiary copayments to all critical access hospitals in calendar year 2019; minus

(ii) The estimated total amount that the Secretary determines would have been paid by the Medicare program and from beneficiary copayments to critical access hospitals in calendar year 2019 if payment were made for inpatient hospital, outpatient hospital, and skilled nursing facility services under the applicable prospective payment systems for such services during calendar year 2019; divided by

(iii) The total number of critical access hospitals enrolled in Medicare in calendar year 2019.

(2) *Calculation of monthly facility payment for 2024 and subsequent years.* For calendar year 2024 and each subsequent calendar year, the amount of the additional annual facility payment is the amount of the preceding year's additional annual facility payment, increased by the hospital market basket percentage increase as described under section 1886(b)(3)(B)(iii) of the Act.

(3) *Recording and Reporting the use of the monthly facility payment.* A rural emergency hospital receiving the monthly facility payment must maintain detailed information as specified by the Secretary as to how the facility has used the monthly facility payments and must make this information available to the Secretary upon request.

(c) *Payment for services furnished by an REH that do not meet the definition of REH services.* A service furnished by an REH that does not meet the definition of an REH service under § 419.91, including a hospital service that is excluded from payment under the OPPS as described in § 419.22, is paid for under the

payment system applicable to the service, provided the requirements for payment under that system are met.

(1) *Payment for ambulance services.* Ambulance services furnished by an entity owned and operated by a rural emergency hospital are paid under the ambulance fee schedule as described at section 1834(l) of the Act.

(2) *Payment for post-hospital extended care services.* Post-hospital extended care services furnished by a rural emergency hospital that has a unit that is a distinct part licensed as a skilled nursing facility are paid under the skilled nursing facility prospective payment system described at section 1888(e) of the Act.

(d) *REH payment for the costs of graduate medical education.* (1) For portions of cost reporting periods beginning on or after October 1, 2023, an REH that incurs costs of training full-time equivalent (FTE) residents that rotate to the REH may receive direct graduate medical education payments for those costs.

(2) Payment is equal to the Medicare reasonable costs that the REH incurs to train the FTE residents that rotate to the REH, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in part 413 of this chapter, except that the following payment principles are excluded:

- (i) Lesser of cost or charges.
- (ii) Ceilings on hospital operating costs.

(3) An REH that does not incur costs of training FTE residents that rotate to the REH is considered a nonprovider setting for purposes of graduate medical education payments, consistent with §§ 412.105(f)(1)(ii)(E) and 413.78(g) of this chapter.

(4) Direct graduate medical education payments to REHs made under this section are made from the Federal Hospital Insurance Trust Fund.

[87 FR 72292, Nov. 23, 2022, as amended at 88 FR 59335, Aug. 28, 2023]

§ 419.93 Payment for an off-campus provider-based department of a rural emergency hospital.

(a) Items and services furnished by an off-campus provider-based department of an REH, as defined in para-

graph (b) of this section, are not applicable items and services under sections 1833(t)(1)(B)(v) and (t)(21) of the Act and are paid as follows:

(1) REH services furnished by an off-campus provider-based department of an REH are paid as described in § 419.92(a)(1).

(2) Services that do not meet the definition of REH services under § 419.91 that are furnished by an off-campus provider-based department of an REH are paid as described under § 419.92(c).

(b) For the purpose of this section, “off-campus provider-based department of an REH” means a “department of a provider” (as defined at § 413.65(a)(2) of this chapter) that is not located on the campus (as defined in § 413.65(a)(2) of this chapter) or within the distance described in such definition from a “remote location of a hospital” (as defined in § 413.65(a)(2) of this chapter) that meets the requirements for provider-based status under § 413.65 of this chapter.

§ 419.94 Preclusion of administrative and judicial review.

There is no administrative or judicial review under section 1869 of the Act, section 1878 of the Act, or otherwise of the following:

- (a) The determination of whether a rural emergency hospital meets the requirements of this subpart.
- (b) The determination of payment amounts under this subpart.
- (c) The requirements established by this subpart.

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