

organization will incur the costs of the resident's salary and fringe benefits and provide reasonable compensation to the non-hospital site for teaching activities.

(c) An MA organization's allowable direct graduate medical education costs, subject to the redistribution and community support principles specified in § 413.85(c) of this chapter, consist of—

(1) Residents' salaries and fringe benefits (including travel and lodging where applicable); and

(2) Reasonable compensation to the non-hospital site for teaching activities related to the training of medical residents.

(d) The direct graduate medical education payment is equal to the product of—

(1) The lower of—

(i) The MA organization's allowable costs per resident as defined in paragraph (c) of this section; or

(ii) The national average per resident amount; and

(2) Medicare's share, which is equal to the ratio of the number of Medicare beneficiaries enrolled to the total number of individuals enrolled in the MA organization.

(e) Direct graduate medical education payments made to MA organizations under this section are made from the Federal Supplementary Medical Insurance Trust Fund.

[70 FR 4729, Jan. 28, 2005, as amended at 85 FR 72909, Nov. 16, 2020]

§ 422.326 Reporting and returning of overpayments.

(a) *Terminology.* For purposes of this section—

Applicable reconciliation occurs on the date of the annual final deadline for risk adjustment data submission described at § 422.310(g), which is announced by CMS each year.

Funds means any payment that an MA organization has received that is based on data submitted by the MA organization to CMS for payment purposes, including § 422.308(f) and § 422.310.

Overpayment means any funds that an MA organization has received or retained under title XVIII of the Act to which the MA organization, after appli-

cable reconciliation, is not entitled under such title.

(b) *General rule.* If an MA organization has identified that it has received an overpayment, the MA organization must report and return that overpayment in the form and manner set forth in this section.

(c) *Identified overpayment.* The MA organization has identified an overpayment when the MA organization has determined, or should have determined through the exercise of reasonable diligence, that the MA organization has received an overpayment.

(d) *Reporting and returning of an overpayment.* An MA organization must report and return any overpayment it received no later than 60 days after the date on which it identified it received an overpayment, unless otherwise directed by CMS for purposes of § 422.311.

(1) *Reporting.* An MA organization must notify CMS, of the amount and reason for the overpayment, using a notification process determined by CMS.

(2) *Returning.* An MA organization must return identified overpayments in a manner specified by CMS.

(e) *Enforcement.* Any overpayment retained by an MA organization is an obligation under 31 U.S.C. 3729(b)(3) if not reported and returned in accordance with paragraph (d) of this section.

(f) *Look-back period.* An MA organization must report and return any overpayment identified for the 6 most recent completed payment years.

[79 FR 29958, May 23, 2014]

§ 422.330 CMS-identified overpayments associated with payment data submitted by MA organizations.

(a) *Definitions.* For purposes of this section—

Applicable reconciliation date occurs on the date of the annual final deadline for risk adjustment data submission described at § 422.310(g)(2)(ii).

Erroneous payment data means payment data that should not have been submitted either because the data submitted are inaccurate or because the data are inconsistent with Medicare Part C requirements.

Payment data means data submitted by an MA organization to CMS and used for payment purposes, including