

Subpart L—The Medicare Geographic Classification Review Board

SOURCE: 55 FR 36766, Sept. 6, 1990, unless otherwise noted.

CRITERIA AND CONDITIONS FOR REDESIGNATION

§412.230 Criteria for an individual hospital seeking redesignation to another rural area or an urban area.

(a) *General*—(1) *Purposes*. Except as specified in paragraph (a)(5)—

(i) For fiscal years prior to fiscal year 2005, an individual hospital may be redesignated from a rural area to an urban area, from a rural area to another rural area, or from an urban area to another urban area for the purposes of using the other area's standardized amount for inpatient operating costs, the wage index value, or both.

(ii) Effective for fiscal year 2005 and subsequent fiscal years, an individual hospital may be redesignated from an urban area to another urban area, from a rural area to another rural area, or from a rural area to another urban area for the purposes of using the other area's wage index value.

(iii) An urban hospital that has been granted redesignation as rural under §412.103 is considered to be located in the rural area of the state for the purposes of this section.

(2) *Proximity*. Except as provided in paragraph (a)(3) of this section, to be redesignated to another rural area or an urban area, a hospital must demonstrate a close proximity to the area to which it seeks redesignation by meeting the criteria in paragraph (b) of this section, and submitting data requested under paragraph (c) of this section.

(3) *Special rules for sole community hospitals and rural referral centers*. To be redesignated under the special rules in this paragraph, a hospital must be approved as a sole community hospital or a rural referral center as of the date of the MGCRB's review.

(i) A hospital that is approved as a rural referral center or a sole community hospital, or both, does not have to

demonstrate a close proximity to the area to which it seeks redesignation.

(ii) If a hospital that is approved as a rural referral center or a sole community hospital, or both, qualifies for urban redesignation, it is redesignated to the urban area that is closest to the hospital or to the hospital's geographic home area. If the hospital is closer to another rural area than to any urban area, it may seek redesignation to either the closest rural area or the closest urban area.

(iii) If a sole community hospital or rural referral center loses its special status as a result of redesignation, the hospital is considered to retain its special status for the purpose of applicability of the special rules in paragraph (a)(3) of this section.

(iv) A hospital that is redesignated under paragraph (a)(3) of this section may not be redesignated in the same fiscal year under paragraph (a)(2) of this section.

(4) *Application of criteria*. In applying the numeric criteria contained in paragraphs (b)(1) and (2) and (d)(1)(iii) and (iv) of this section, rounding of numbers to meet the mileage or qualifying percentage standards is not permitted.

(5) *Limitations on redesignation*. The following limitations apply to redesignation:

(i) An individual hospital may not be redesignated to another area for purposes of the wage index if the pre-reclassified average hourly wage for that area is lower than the pre-reclassified average hourly wage for the area in which the hospital is located. An urban hospital that has been granted redesignation as rural under §412.103 is considered to be located either in its geographic area or in the rural area of the State for the purposes of this paragraph (a)(5)(i).

(ii) A hospital may not be redesignated to more than one area, except for an urban hospital that has been granted redesignation as rural under §412.103 and receives an additional reclassification by the MGCRB.

(iii) Beginning with wage index reclassification applications for FY 2003, if a hospital is already reclassified to a given geographic area for wage index purposes for a 3-year period, and submits an application for reclassification

to the same area for either the second or third year of the 3-year period, that application will not be approved.

(b) *Proximity criteria.* A hospital demonstrates a close proximity with the area to which it seeks redesignation if one of the following conditions applies:

(1) The distance from the hospital to the area is no more than 15 miles for an urban hospital and no more than 35 miles for a rural hospital.

(2) At least 50 percent of the hospital's employees reside in the area.

(c) *Appropriate proximity data.* For redesignation to an area, the hospital must submit appropriate data relating to its proximity to that area.

(1) To demonstrate proximity to the area, the hospital must submit evidence of the shortest route over improved roads to the area and the distance of that route.

(2) For employee address data, the hospital must submit current payroll records that include information that establishes the home addresses by zip code of its employees.

(d) *Use of urban or other rural area's wage index—*(1) *Criteria for use of area's wage index.* Except as provided in paragraphs (d)(3) and (d)(4) of this section, to use an area's wage index, a hospital must demonstrate the following:

(i) The hospital's incurred wage costs are comparable to hospital wage costs in an urban or other rural area;

(ii) The hospital has the necessary geographic relationship as specified in paragraphs (a) and (b) of this section;

(iii) One of the following conditions apply:

(A) With respect to redesignations for Federal fiscal years 1994 through 2001, the hospital's average hourly wage is at least 108 percent of the average hourly wage of hospitals in the area in which the hospital is located;

(B) With respect to redesignations for Federal fiscal years 2002 through 2005, the hospital's average hourly wage is, in the case of a hospital located in a rural area, at least 106 percent and in the case of a hospital located in an urban area, at least 108 percent of the average hourly wage of hospitals in the area in which the hospital is located; or

(C) With respect to redesignations for Federal fiscal year 2006 and subsequent

years, the hospital's average hourly wage is, in the case of a hospital located in a rural area, at least 106 percent and in the case of a hospital located in an urban area, at least 108 percent of the average hourly wage of all other hospitals in the area in which the hospital is located;

(iv) One of the following conditions apply:

(A) For redesignations effective before fiscal year 1999, the hospital's average hourly wage weighted for occupational categories is at least 90 percent of the average hourly wages of hospitals in the area to which it seeks redesignation.

(B) With respect to redesignations for fiscal year 1994 through 2001, the hospital's average hourly wage is equal to at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

(C) With respect to redesignations for fiscal years 2002 through 2009, the hospital's average hourly wage is equal to, in the case of a hospital located in a rural area, at least 82 percent, and in the case of a hospital located in an urban area, at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

(D) With respect to redesignations for fiscal year 2010, the hospital's average hourly wage is equal to, in the case of a hospital located in a rural area, at least 84 percent, and in the case of a hospital located in an urban area, at least 86 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

(E) With respect to redesignations for fiscal year 2011 and later fiscal years, the hospital's average hourly wage is equal to, in the case of a hospital located in a rural area, at least 82 percent, and in the case of a hospital located in an urban area, at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

(2) *Appropriate wage data.* For a wage index change, the hospital must submit appropriate wage data as follows:

(i) For redesignations effective through FY 2002:

(A) For hospital-specific data, the hospital must provide data from the

CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospital requests reclassification.

(B) For data for other hospitals, the hospital must provide data concerning the average hourly wage in the area in which the hospital is located and the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospital requests reclassification.

(ii) For redesignations effective beginning FY 2003:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(1) For the limited purpose of qualifying for geographic reclassification based on wage data from cost reporting periods beginning prior to FY 2000, a hospital may request that its wage data be revised if the hospital is in an urban area that was subject to the rural floor for the period during which the wage data the hospital wishes to revise were used to calculate its wage index.

(2) Once a hospital has accumulated at least 1 year of wage data in the applicable 3-year average hourly wage period used by the MGCRB, the hospital is eligible to apply for reclassification based on those data.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(iii) For applications submitted for reclassifications effective in FYs 2006 through 2008, a campus of a multicam-

pus hospital may seek reclassification only to a CBSA in which another campus(es) is located. If the campus is seeking reclassification to a CBSA in which another campus(es) is located, as part of its reclassification request, the requesting entity must submit the composite wage data for the entire multicampus hospital as its hospital-specific data.

(iv) For purposes of this paragraph (d)(2), if a new owner does not accept assignment of the existing hospital's provider agreement in accordance with §489.18 of this chapter, the hospital will be treated as a new provider with a new provider number. In this case, the wage data associated with the previous hospital's provider number cannot be used in calculating the new hospital's 3-year average hourly wage. Once a new hospital has accumulated at least 1 year of wage data, it is eligible to apply for reclassification on the basis of those data.

(v) For applications submitted for reclassification effective in FY 2009 and thereafter, a campus of a multicampus hospital that is located in a geographic area different from the area associated with the provider number of the entire multicampus hospital may seek reclassification to another CBSA using the composite wage data of the entire multicampus hospital as its hospital-specific data.

(3) *Rural referral center exceptions.* (i) If a hospital was ever approved as a rural referral center, it does not have to demonstrate that it meets the average hourly wage criterion set forth in paragraph (d)(1)(iii) of this section.

(ii) If a hospital was ever approved as a rural referral center, it is required to meet only the criterion that applies to rural hospitals under paragraph (d)(1)(iv) of this section, regardless of its actual location in an urban or rural area.

(4) *Special dominating hospital exception.* The requirements of paragraph (d)(1)(i) and (d)(1)(iii) of this section do not apply if a hospital meets the following criteria:

(i) Its average hourly wage is at least 108 percent of the average hourly wage of all other hospitals in the area in which the hospital is located.

§ 412.232

42 CFR Ch. IV (10–1–24 Edition)

(ii) It pays at least 40 percent of the adjusted uninflated wages in the MSA.

(iii) It was approved for redesignation under this paragraph (d) for each year from fiscal year 1992 through fiscal year 1997.

(5) *Single hospital MSA exception.* The requirements of paragraph (d)(1)(iii) of this section do not apply if a hospital is the single hospital in its MSA with published 3-year average hourly wage data included in the current fiscal year inpatient prospective payment system final rule.

[55 FR 36766, Sept. 6, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 412.230, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 412.232 Criteria for all hospitals in a rural county seeking urban redesignation.

(a) *Criteria.* For all hospitals in a rural county to be redesignated to an urban area, the following conditions must be met:

(1) The county in which the hospitals are located—

(i) For fiscal years prior to fiscal year 2006, must be adjacent to the MSA or NECMA to which they seek redesignation.

(ii) For fiscal years beginning with fiscal year 2006, must be adjacent to the MSA to which they seek redesignation.

(2) All hospitals in a rural county must apply for redesignation as a group.

(3) The hospitals must demonstrate that the rural county in which they are located currently meets the criteria for metropolitan character under paragraph (b) of this section and the wage criteria under paragraph (c) of this section.

(4) The hospital may be redesignated only if one of the following conditions is met:

(i) The prereclassified average hourly wage for the area to which they seek redesignation is higher than the prereclassified average hourly wage for the area in which they are currently located.

(ii) For fiscal years prior to fiscal year 2006, the standardized amount for

the area to which they seek redesignation is higher than the standardized amount for the area in which they are located.

(b) *Metropolitan character.* (1) For fiscal years prior to FY 2005, the group of hospitals must demonstrate that the county in which the hospitals are located meets the standards for redesignation to an MSA or an NECMA as an outlying county that were published in the FEDERAL REGISTER on March 30, 1990 (55 FR 12154) using Bureau of the Census data or Bureau of Census estimates made after 1990.

(2) For fiscal years beginning with FY 2005, the group of hospitals must demonstrate that the county in which the hospitals are located meets the standards for redesignation to an MSA as an outlying county using the most recent OMB standards for delineating statistical areas adopted by CMS and the most recent Census Bureau data.

(c) *Wage criteria.* In applying the following numeric criteria, rounding of numbers to meet the qualifying percentages is not permitted.

(1) *Aggregate hourly wage for fiscal years before fiscal year 2010—*(i) *Aggregate hourly wage.* With respect to redesignations effective beginning fiscal year 1999 and before fiscal year 2010, the aggregate average hourly wage for all hospitals in the rural county must be equal to at least 85 percent of the average hourly wage in the adjacent urban area.

(ii) *Aggregate hourly wage weighted for occupational mix.* For redesignations effective before fiscal year 1999, the aggregate hourly wage for all hospitals in the rural county, weighed for occupational categories, is at least 90 percent of the average hourly wage in the adjacent urban area.

(2) *Aggregate hourly wage for fiscal year 2010.* With respect to redesignations effective for fiscal year 2010, the aggregate average hourly wage for all hospitals in the rural county must be equal to at least 86 percent of the average hourly wage in the adjacent urban area.

(3) *Aggregate hourly wage for fiscal year 2011 and later fiscal years.* With respect to redesignations effective for fiscal year 2011 and later fiscal years, the aggregate average hourly wage for all

hospitals in the rural county must be equal to at least 85 percent of the average hourly wage in the adjacent urban area.

(d) *Appropriate data*—(1) *Metropolitan character*. (i) To meet the criteria in paragraph (b) of this section, the hospitals may submit data, estimates, or projections, made by the Bureau of the Census concerning population density or growth, or changes in designation of urban areas.

(ii) The MGCRB only considers data developed by the Bureau of the Census.

(2) *Appropriate wage data*. The hospitals must submit appropriate data as follows:

(i) For redesignations effective through FY 2002:

(A) For hospital-specific data, the hospitals must provide data from the CMS wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(B) For data for other hospitals, the hospitals must provide the following:

(1) The average hourly wage in the adjacent area, which is taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(2) Occupational-mix data to demonstrate the average occupational mix for each employment category in the adjacent area. Occupational-mix data can be obtained from surveys conducted by the American Hospital Association.

(ii) For redesignations effective beginning FY 2003:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification.

The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(iii) For redesignations effective beginning FY 2009, the wage data of an individual campus of a multicampus hospital will be determined by allocating, on the basis of full-time equivalent staff or discharges, the wage data of the entire multicampus hospital between or among the individual campuses of the multicampus hospital. The provision of this paragraph (d)(2)(iii) applies only in the case where an individual campus is located in a geographic area different from the area associated with the provider number of the entire multicampus hospital.

[55 FR 36766, Sept. 6, 1990, as amended at 57 FR 39826, Sept. 1, 1992; 58 FR 46339, Sept. 1, 1993; 59 FR 45399, Sept. 1, 1994; 60 FR 45849, Sept. 1, 1995; 62 FR 46031, Aug. 29, 1997; 66 FR 39934, Aug. 1, 2001; 69 FR 49249, Aug. 11, 2004; 69 FR 60252, Oct. 7, 2004; 72 FR 47412, Aug. 22, 2007; 73 FR 48756, Aug. 19, 2008; 75 FR 50415, Aug. 16, 2010; 79 FR 50355, Aug. 22, 2014]

§412.234 Criteria for all hospitals in an urban county seeking redesignation to another urban area.

(a) *General criteria*. For all prospective payment hospitals in an urban county to be redesignated to another urban area, the following conditions must be met:

(1) All hospitals in an urban county must apply for redesignation as a group.

(2) The county in which the hospitals are located must be adjacent to the urban area to which they seek redesignation.

(3)(i) For Federal fiscal years before fiscal year 2006, the counties in which the hospitals are located must be part of the Consolidated Metropolitan Statistical Area (CMSA) that includes the urban area to which they seek redesignation.

(ii) For Federal fiscal year 2006, hospitals located in counties that are in the same Combined Statistical Area (CSA) (under the MSA definitions announced by the OMB on June 6, 2003) as the urban area to which they seek redesignation; or in the same Consolidated Metropolitan Statistical Area (CMSA) (under the standards published by the OMB on March 30, 1990) as the

§ 412.235

42 CFR Ch. IV (10–1–24 Edition)

urban area to which they seek designation qualify as meeting the proximity requirements for reclassification to the urban area to which they seek redesignation.

(iii) For Federal fiscal year 2007, hospitals located in counties that are in the same Combined Statistical Area (CSA) (under the MSA definitions announced by the OMB on June 6, 2003) as the urban area to which they seek redesignation qualify as meeting the proximity requirement for reclassification to the urban area to which they seek redesignation.

(iv) For Federal fiscal year 2008 and thereafter, hospitals located in counties that are in the same Combined Statistical Area (CSA) or Core-Based Statistical Area (CBSA) (under the most recent OMB standards for delineating statistical areas adopted by CMS and the most recent Census Bureau data) as the urban area to which they seek redesignation qualify as meeting the proximity requirement for reclassification to the urban area to which they seek redesignation.

(4) The hospital may be redesignated only if one of the following conditions is met:

(i) The prereclassified average hourly wage for the area to which they seek redesignation is higher than the prereclassified average hourly wage for the area in which they are currently located.

(ii) For fiscal years prior to fiscal year 2005, the standardized amount for the area to which they seek redesignation is higher than the standardized amount for the area in which they are located.

(b) *Wage criteria.* In applying the following numeric criteria, rounding of numbers to meet the qualifying percentages is not permitted.

(1) *Aggregate hourly wage for fiscal years before fiscal year 2010*—(i) *Aggregate hourly wage.* With respect to redesignations effective beginning fiscal year 1999 and before fiscal year 2010, the aggregate average hourly wage for all hospitals in the urban county must be at least 85 percent of the average hourly wage in the urban area to which the hospitals in the county seek reclassification.

(ii) *Aggregate hourly wage weighted for occupational mix.* For redesignations effective before fiscal year 1999, the aggregate hourly wage for all hospitals in the county, weighed for occupational categories, is at least 90 percent of the average hourly wage in the adjacent urban area.

(2) *Aggregate hourly wage for fiscal year 2010.* With respect to redesignations effective for fiscal year 2010, the aggregate average hourly wage for all hospitals in the urban county must be at least 86 percent of the average hourly wage in the urban area to which the hospitals in the county seek reclassification.

(3) *Aggregate hourly wage for fiscal year 2011 and later fiscal years.* With respect to redesignations effective for fiscal year 2011 and later fiscal years, the aggregate average hourly wage for all hospitals in the urban county must be at least 85 percent of the average hourly wage in the urban area to which the hospitals in the county seek reclassification.

(c) *Appropriate wage data.* (1) The hospitals must submit appropriate wage data as provided for in § 412.230(d)(2).

(2) For redesignations effective beginning FY 2009, the appropriate wage data of an individual campus located in a geographic area different from the area associated with the provider number of the entire multicampus hospital are the wage data described in § 412.232(d)(2)(iii).

[56 FR 25488, June 4, 1991, as amended at 57 FR 39826, Sept. 1, 1992; 58 FR 46339, Sept. 1, 1993; 60 FR 45849, Sept. 1, 1995; 62 FR 46031, Aug. 29, 1997; 69 FR 49249, Aug. 11, 2004; 70 FR 47487, Aug. 12, 2005; 71 FR 48140, Aug. 18, 2006; 72 FR 47412, Aug. 22, 2007; 73 FR 48756, Aug. 19, 2008; 75 FR 50415, Aug. 16, 2010; 79 FR 50355, Aug. 22, 2014]

§ 412.235 Criteria for all hospitals in a State seeking a statewide wage index redesignation.

(a) *General criteria.* For all prospective payment system hospitals in a State to be redesignated to a statewide wage index, the following conditions must be met:

(1) All prospective payment system hospitals in the State must apply as a group for reclassification to a statewide wage index through a signed single application.

(2) All prospective payment system hospitals in the State must agree to the reclassification to a statewide wage index through a signed affidavit on the application.

(3) All prospective payment system hospitals in the State must agree, through an affidavit, to withdrawal of an application or to termination of an approved statewide wage index reclassification.

(4) All hospitals in the State must waive their rights to any wage index classification that they would otherwise receive absent the statewide wage index classification, including a wage index that any of the hospitals might have received through individual geographic reclassification.

(5) New hospitals that open within the State prior to the deadline for submitting an application for a statewide wage index reclassification (September 1), regardless of whether a group application has already been filed, must agree to the use of the statewide wage index as part of the group application. New hospitals that open within the State after the deadline for submitting a statewide wage index reclassification application or during the approved reclassification period will be considered a party to the statewide wage index application and reclassification.

(b) *Effect on payments.* (1) An individual hospital within the State may receive a wage index that could be higher or lower under the statewide wage index reclassification in comparison to its otherwise redesignated wage index.

(2) Any new prospective payment system hospital that opens in the State during the effective period of an approved statewide wage index reclassification will be designated to receive the statewide wage index for the duration of that period.

(c) *Terms of the decision.* (1) A decision by the MGCRB on an application for a statewide wage index reclassification will be effective for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the hospitals filed a complete application.

(2) The procedures and timeframes specified in § 412.273 apply to with-

drawals of applications for redesignation to a statewide wage index and terminations of approved statewide wage index reclassifications, including the requirement that, to withdraw an application or terminate an approved reclassification, the request must be made in writing by all hospitals that are party to the application, except hospitals reclassified into the State for purposes of receiving the statewide wage index.

[66 FR 39935, Aug. 1, 2001]

COMPOSITION AND PROCEDURES

§ 412.246 MGCRB members.

(a) *Composition.* The Medicare Geographical Classification Review Board (MGCRB) consists of five members, including a Chairman, all of whom are appointed by the Secretary. The members include two members who are representative of prospective payment system hospitals located in rural areas, and at least one individual who is knowledgeable in analyzing the costs of inpatient hospital services.

(b) *Term of office.* The term of office for an MGCRB member may not exceed 3 years. A member may serve more than one term. The Secretary may terminate a member's tenure prior to its full term.

[55 FR 36766, Sept. 6, 1990, as amended at 61 FR 46224, Aug. 30, 1996; 61 FR 51217, Oct. 1, 1996]

§ 412.248 Number of members needed for a decision or a hearing.

(a) *A quorum.* A quorum, consisting of at least a majority of the MGCRB members, one of whom is representative of rural hospitals if possible, is required for making MGCRB decisions.

(b) *Number of members for a hearing.* If less than a quorum is present for an oral hearing, the chairman with the consent of the hospital may allow those members present to conduct the hearing and to prepare a recommended decision, which is then submitted to a quorum.

§ 412.250 Sources of MGCRB's authority.

(a) *Compliance.* The MGCRB, in issuing decisions under section 1886(d)(10)(C) of the Act, complies with