

(iii) Is not a sole community hospital as defined in §412.92 of this chapter; and

(iv) Is not an essential access community hospital under §412.109 of this chapter.

(3) *Permanent treatment for cancer hospitals and children's hospitals.* In the case of a hospital described in §412.23(d) or §412.23(f) of this chapter for which the prospective payment system amount is less than the pre-BBA amount for covered hospital outpatient services, the amount of payment under this part is increased by the amount of this difference.

(4) *Temporary treatment for sole community hospitals located in rural areas for covered hospital outpatient services furnished during cost reporting periods beginning on or after January 1, 2004 and before January 1, 2006.* For covered hospital outpatient services furnished during cost reporting periods beginning on or after January 1, 2004, and continuing through December 31, 2005, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by the amount of that difference if the hospital—

(i) Is a sole community hospital, under §412.92 of this chapter; and

(ii) Is located in a rural area as defined in §412.63(b) or §412.64(b), as applicable, of this chapter or is treated as being located in a rural area under section 1886(d)(8)(E) of the Act.

(5) *Temporary treatment for small sole community hospitals on or after January 1, 2009 and through December 31, 2009.* For covered hospital outpatient services furnished on or after January 1, 2009, and continuing through December 31, 2009, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by 85 percent of that difference if the hospital—

(i) Is a sole community hospital as defined in §412.92 of this chapter or is an essential access community hospital as described under §412.109 of this chapter; and

(ii) Has 100 or fewer beds as defined in §412.105(b) of this chapter.

(6) *Temporary treatment for sole community hospitals on or after January 1,*

*2010, and through December 31, 2011.* For covered hospital outpatient services furnished on or after January 1, 2010, through December 31, 2011, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by 85 percent of that difference if the hospital is a sole community hospital as defined in §412.92 of this chapter or is an essential access community hospital as described under §412.109 of this chapter.

(7) *Temporary treatment of small sole community hospitals on or after January 1, 2012 through December 31, 2012.* (i) For covered hospital outpatient services furnished on or after January 1, 2012 through December 31, 2012, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by 85 percent of that difference if the hospital—

(A) Is a sole community hospital as defined in §412.92 of this chapter or is an essential access community hospital as described under §412.109 of this chapter; and

(B) Has 100 or fewer beds as defined in §412.105(b) of this chapter, except as provided in paragraph (d)(7)(ii) of this section.

(ii) For covered hospital outpatient services furnished on or after January 1, 2012 through February 29, 2012, the bed size limitation under paragraph (d)(7)(i)(B) of this section does not apply.

(e) *Prospective payment system amount defined.* In this section, the term “prospective payment system amount” means, with respect to covered hospital outpatient services, the amount payable under this part for these services (determined without regard to this section or any reduction in coinsurance elected under §419.42), including amounts payable as copayment under §419.41, coinsurance under section 1866(a)(2)(A)(ii) of the Act, and the deductible under section 1833(b) of the Act.

(f) *Pre-BBA amount defined—(1) General rule.* In this paragraph, the “pre-BBA amount” means, with respect to covered hospital outpatient services furnished by a hospital or a community mental health center (CMHC) in a year,