

(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  $\frac{1}{2}$  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