

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Medicare &amp; Medicaid Services

## 42 CFR Part 409

[CMS-1469-F2]

RIN-0938-AL90

**Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Correcting Amendment****AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.**ACTION:** Final rule; correcting amendment.

**SUMMARY:** In the August 4, 2003 issue of the **Federal Register** (68 FR 46036), we published a final rule that updates the payment rates used under the prospective payment system for skilled nursing facilities for fiscal year 2004. The effective date was October 1, 2003. This correcting amendment corrects a typographical error identified in the August 4, 2003 final rule.

**DATES:** *Effective Date:* This correcting amendment is effective July 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Bill Ullman, (410) 786-5667.

**SUPPLEMENTARY INFORMATION:****I. Background**

In FR Doc. 03-19677 of August 4, 2003 (68 FR 46036), there was a technical error we are identifying and correcting in the "Correction of Errors" section II of this final rule. Specifically, the August 4, 2003 final rule made a number of technical corrections to the regulations, including the revision of a cross-reference that appears in the regulations text at § 409.20(c). However, in republishing the introductory portion of paragraph (c) of § 409.20, we inadvertently used the paragraph heading for the preceding paragraph instead (paragraph (b)(2), "*Services not generally provided by (or under arrangements made by) SNFs*"). Therefore, we are publishing this final rule to restore the correct paragraph heading ("*Terminology.*") for paragraph (c) of § 409.20. The provisions in this final rule are effective July 26, 2004.

**II. Correction of Errors**

In FR Doc. 03-19677 of August 4, 2003 (68 FR 46036), make the following correction:

On page 46070, in the second column, the heading for paragraph (c) of § 409.20 should read, "*Terminology.*"

**III. Waiver of Proposed Rulemaking and 30-day Delay in Effective Date**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. We can waive this procedure, however, if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of finding and its reasons for it into the correcting amendment issued (5 U.S.C. (b)(B)).

We find for good cause that it is unnecessary to undertake notice and public comment procedures because this correcting amendment does not make any substantive policy changes. This document makes technical corrections and conforming changes to the August 4, 2003 final rule. Therefore, for good cause we waive the notice and public comment procedures.

■ Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendment:

■ The authority citation for part 409 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**Subpart C—Posthospital SNF Care**

■ In § 409.20, the introductory text to paragraph (c) is revised to read as follows:

**§ 409.20 Coverage of services.**

\* \* \* \* \*

(c) *Terminology.* In § 409.21 through § 409.36—

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 2, 2004.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

[FR Doc. 04-14054 Filed 6-24-04; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Medicare &amp; Medicaid Services

## 42 CFR Part 411

[CMS-1809-F5]

RIN 0938-AM99

**Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships; Extension of Partial Delay of Effective Date****AGENCY:** Centers for Medicare & Medicaid Services (CMS), DHHS.**ACTION:** Final rule; extension of partial delay in effective date.

**SUMMARY:** This final rule further delays for 19 days, until July 26, 2004, the effective date of the last sentence of 42 CFR § 411.354(d)(1), as published in the January 4, 2001 final rule (66 FR 856). The new effective date coincides with the effective date of a March 26, 2004 interim final rule that removed this sentence from the regulation. Consequently, the last sentence of § 411.354(d)(1), as originally published in January 2001, will be automatically superseded by the March 2004 interim final rule.

**DATES:** *Effective date:* The effective date of the last sentence in § 411.354(d)(1) of the final rule published in the **Federal Register** on January 4, 2001 (66 FR 856) is further delayed until July 26, 2004 at which time it will be superseded by a new § 411.354(d)(1), published in the **Federal Register** on March 26, 2004 (69 FR 16054), effective on July 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Karen Raschke, (410) 786-0016.

**SUPPLEMENTARY INFORMATION:** This **Federal Register** document is available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: <http://www.access.gpo.gov/nara/index.html>.

In addition, the information in this final rule will be available soon after publication in the **Federal Register** on our MEDLEARN Web site at <http://cms.hhs.gov/medlearn/refphys.asp>.

**I. Background**

Under section 1877 of the Social Security Act (Act), if a physician or a member of a physician's immediate family has a financial relationship with a health care entity, the physician may not make referrals to that entity for the furnishing of designated health services (DHS) under the Medicare program, and