

■ 2. Section 950.35 is amended in the table by adding a new entry in

chronological order by “Date of Final Publication” to read as follows:

§ 950.35 Approval of Wyoming abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
March 21, 2008	October 3, 2008.	Wyoming Statute (W.S.) § 35–11–1210(b)

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 411, 412, 413, 422, and 489

[CMS–1390–CN; CMS–1531–CN; CMS–1385–CN2]

RIN 0938–AP15; RIN 0938–AO35; RIN 0938–AO65

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.
ACTION: Correction of final rules.

SUMMARY: This document corrects technical and typographical errors that appeared in the final rule published in the *Federal Register* on August 19, 2008, entitled “Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals.”

DATES: *Effective Date:* Except for the items listed in section IV.B.3.a. through e. of this notice, the items listed in this

correction notice are effective on October 1, 2008. The items listed in section IV.B.3.a. through e. of this notice are effective on October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Tzvi Heftner (410) 786–4487, Corrections to the preamble and addendum. Donald Romano, (410) 786–1401 or Lisa Ohrin, (410) 786–4565, Corrections to the regulations text for part 411.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. E8–17914 of August 19, 2008 (73 FR 48434), the final rule entitled Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals” (hereinafter referred to as the FY 2009 IPPS final rule) there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section below. We note that the FY 2009 IPPS final rule had several effective dates (see 73 FR 48343); and therefore, we are conforming the effective dates of the items listed in this notice with the effective dates specified in the FY 2009 IPPS final rule.

II. Summary of Errors

A. Errors in the Preamble

On page 48434, in the effective dates section of the final rule, we specified that § 411.357(p)(1)(i)(A) and (B) are effective on October 1, 2009. However, we made a technical error in codifying these paragraphs (see sections II.B. and IV.B.3.e.(B). of this notice). To ensure that the cross-reference is consistent with the regulations in § 411.357(p), we are correcting the cross-reference in section IV.A.1 of this notice.

On pages 48491, 48497, and 48773, we made inadvertent typographical errors in two figures and a date. We

correct these errors in section IV.A.2, 3, and 8 of this notice.

On page 48509, we stated that we were finalizing several codes and that these codes will be added to the MCE edit for males only. However, through an inadvertent error the codes were not included in the final FY 2009 MCE edits. Therefore, in section IV.A.4. of this notice, we correct this discussion by adding language to note that the codes for MCE edit for males only will be added to the MCE codes for FY 2010.

On page 48566, we discuss the analysis conducted by Acumen comparing MedPAC’s recommended wage indices to the current CMS wage index. In section IV.A.5 of this notice, we correct this discussion by adding a parenthetical statement to clarify that the wage index data that we provided did not include the effects of sections 505 and 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

On page 48646, we discuss the deadline for submission of emergency Medicare graduate medical education (GME) affiliation agreements. In our example, we incorrectly stated the date by which hospitals are permitted to submit an emergency Medicare GME Affiliation agreement for the period from March 1, 2009, to June 30, 2009, and the period from July 1, 2009, to June 30, 2010. The dates referenced were August 28, 2009, and August 28, 2010, respectively. In section IV.A.6 of this correction notice, we corrected these inadvertent errors.

On page 48648, we discuss the rolling average and cap adjustments for FTE residents. In this discussion, we incorrectly stated that FTE residents training in new teaching hospitals and in new residency programs at existing teaching hospitals are excluded from the rolling average for the minimum accredited length of the program. In section IV.A.7. of this notice, we have corrected this error by revising this sentence to clarify that, in accordance with the regulations at § 413.79(d)(5), the exclusion from the rolling average applies for new programs that qualify for the cap adjustment under § 413.79(e).

B. Errors in the Regulation Text

On page 48751, in the regulations text for § 411.353(c)(1)(ii) and (iii) and (g)(1), we made grammatical and typographical errors. We are correcting these errors in section IV.B.1. of this notice.

On page 48752, in the regulations text for § 411.354(c)(1)(ii), we inadvertently omitted the quotation marks for the phrase “stand in the shoes”. In section IV.B.2. of this notice, we are correcting this error.

On pages 48752 and 48753, in the regulations text for § 411.357, we note the following errors:

- In paragraphs (a)(5)(ii)(B), (b)(4)(ii)(B), (l)(3)(ii), and (p)(1)(i)(B) regarding rental of office space, rental of equipment, fair market value compensation, and indirect compensation arrangements, respectively, we inadvertently included the phrase “between the parties” instead of the phrase “by the lessor to the lessee”. Therefore, our regulations text for these paragraphs do not accurately reflect our policy in the FY 2009 IPPS final rule (see 73 FR 48713 through 48714). We are correcting these errors in section IV.B.3., a., c., d., and e.D. of this notice.

- In paragraph (b)(4)(ii)(A) regarding rental changes, we made a grammatical error in using the term “by” instead of “through”. We are correcting this error in section IV.B.3.b. of this notice.

- In paragraph (p)(1)(i), we inadvertently included the last sentence as part of this paragraph instead of making that sentence the beginning of paragraph (p)(1)(ii). In section IV.B.3.e.B., we are correcting this error by redesignating this language as paragraph (p)(1)(ii).

- In paragraph (p)(1)(i)(A) (redesignated as paragraph (p)(1)(ii)(A)) (see section IV.B.3.e.C. of this notice) regarding compensation for the rental of office space or equipment, we inadvertently omitted the term “on” from the phrase “performed or business generated through”. We are correcting this omission in section III.B.3.e.(3). of this notice.

- In paragraphs (p)(1)(ii) and (iii), we inadvertently included regulatory text that also appears in paragraphs (p)(2) and (3) and is applicable to paragraph (p) in its entirety. In section IV.B.3.e.A. of this notice, we are correcting these errors by removing paragraphs (p)(1)(ii) and (iii).

- In paragraph (r)(2)(ii) regarding remuneration of obstetrical malpractice insurance subsidies, we made grammatical errors when using the term “payments”. In section IV.B.3.f.A. of this notice, we are correcting the term to read “payment”.

- In paragraph (r)(3)(ii)(B) regarding the cost of malpractice insurance premiums, we inadvertently included the phrase “rural area or” which does not conform to the policy in the FY 2009 IPPS final rule (see 73 FR 48734). In section IV.B.3.f.B. of this notice, we are correcting this error by removing the phrase.

C. Errors in the Addendum

On pages 48827 and 48881, in Tables 2 and 3, we had erroneous wage data for provider number 300005 and rural New Hampshire, respectively. Therefore, we are correcting these errors in sections IV.C.1. and 2. of this notice. We note that the corrections to the wage data for the New Hampshire provider specified in this notice are consistent with our regulations at 42 CFR 412.64(k)(2)(ii). We also note that wage data corrections for this provider are also reflected in the FY 2009 final rates, wage indices, budget neutrality factors and tables included in the notice subsequent to the FY 2009 IPPS final rule published elsewhere in this **Federal Register**.

On pages 49044, 49046, and 49060, we made technical errors in the MS–LTC–DRG titles for several MS–LTC–DRGs (that is, MS–LTC–DRGs 154 through 156, 250, 251 and 864). We need to correct these titles so that they are consistent with the MS–DRG titles presented in Table 5 of the FY 2009 IPPS final rule since the patient classification system utilized under the LTCH PPS uses the same diagnosis-related groups (DRGs) as those used under the IPPS. Therefore, we are correcting these errors in section IV.C.3. of this notice.

III. Waiver of Proposed Rulemaking and 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 in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary

to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. Therefore, we are waiving proposed rulemaking and the 30-day delayed effective date for the technical corrections in this notice. This notice merely corrects typographical and technical errors in the preamble, regulations text, and addendum of the FY 2009 IPPS final rule and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this notice is intended to ensure that the FY 2009 IPPS final rule accurately reflects the policies adopted in the final rule. Therefore, we find that undertaking further notice and comment procedures to incorporate these corrections into the final rule or delaying the effective date of these changes is unnecessary and contrary to the public interest.

IV. Correction of Errors

In FR Doc. E8–17914 of August 19, 2008 (73 FR 48434), make the following corrections:

A. Corrections to the Preamble

1. On page 48434, second column, third full paragraph, line 8, the cross-reference “(p)(1)(i)(A) and (B)” is corrected to read “(p)(1)(ii)”.

2. On page 48491, top half of the page, in the untitled table, second column (CC/MCC (ICD–9–CM codes)), line 25, the figures “81.31–81.83” are corrected to read “81.31–81.38”.

3. On page 48497, first column, fourth full paragraph, last line, the phrase “October 1, 2009” is corrected to read “October 1, 2008”.

4. On page 48509, first column, fifth full paragraph, last line is corrected by adding the following sentences:

“However, there was an inadvertent omission of these codes from the MCE product. Therefore, we will add these codes in the MCE for FY 2010.”

5. On page 48566, third column, first full paragraph, line 11, after the phrase “FY 2007.” and before the word “Acumen’s”, the text is corrected by adding the following parenthetical sentence:

“(Note that the CMS final wage index Acumen analyzed excludes or removes the effects of sections 505 and 508 of MMA.)”

6. On page 48646, first column, first paragraph

- a. Line 36, the date “August 28, 2009” is corrected to read “December 29, 2009”.

- b. Line 43, the date “August 28, 2010” is corrected to read “December 29, 2010”.

7. On page 48648, third column, first paragraph, line 7, the sentence "However, FTE residents training in new teaching hospitals and in new residency programs at existing teaching hospitals are excluded from the rolling average for the minimum accredited length of the program (dental and podiatry residents are always exempt from the rolling average." is corrected to read "However, FTE residents training in new residency training programs that qualify for cap adjustments under § 413.79(e) are excluded from the rolling average for the minimum accredited length of the program."

8. On page 48773, second column, last paragraph, line 8, the figure "0.09" is corrected to read "0.9".

B. Corrections to the Regulation Text

§ 411.353 [Corrected]

■ 1. Section 411.353 is corrected by—

■ a. On page 48751, in the second column, in paragraphs (c)(1)(ii) and (iii), removing the second and third commas.

■ b. On the same page, in the third column, in paragraph (g)(1)(i), removing the word "complied" and adding the word "complies" in its place.

■ c. On same page in the same column, in paragraph (g)(1)(ii)(A), removing the phrase "Inadvertent, and the parties obtain the required signature(s) within 90 consecutive calendar days immediately following the date on which the compensation arrangement becomes" and adding the phrase "Inadvertent and the parties obtain the required signature(s) within 90 consecutive calendar days immediately following the date on which the compensation arrangement became" in its place.

■ d. On the same page, in the same column, in paragraph (g)(1)(ii)(B), removing the phrase "Not inadvertent, and the parties obtain the required signature(s) within 30 consecutive calendar days immediately following the date on which the compensation arrangement becomes" and adding the phrase "Not inadvertent and the parties obtain the required signature(s) within 30 consecutive calendar days immediately following the date on which the compensation arrangement became" in its place.

§ 411.354 [Corrected]

■ 2. On page 48752, in the first column, § 411.354(c)(1)(ii) introductory text is corrected by adding quotation marks to the phrase "stand in the shoes".

§ 411.357 [Corrected]

■ 3. Section 411.357 is corrected by—

■ a. On page 45752, in the third column, in paragraph (a)(5)(ii)(B), removing the phrase "between the parties" and adding the phrase "by the lessor to the lessee" in its place.

■ b. On the same page, in the same column, in paragraph (b)(4)(ii)(A), removing the word "by" and adding the word "through" in its place.

■ c. On the same page, in the same column, in paragraph (b)(4)(ii)(B), removing the phrase "between the parties" and adding the phrase "by the lessor to the lessee" in its place.

■ d. On page 48753, in the first column, in paragraph (l)(3)(ii), removing the phrase "between the parties" and adding the phrase "by the lessor to the lessee" in its place.

■ e. On the same page, in the second column, in paragraph (p)(1)—

■ A. Removing paragraphs (p)(1)(ii) and (iii).

■ B. Redesignating the last sentence of paragraph (p)(1)(i) as paragraph (p)(1)(ii).

■ C. In newly redesignated paragraph (p)(1)(ii)(A), removing the phrase "performed or business generated through" and adding the phrase "performed on or business generated through" in its place.

■ D. In newly redesignated paragraph (p)(1)(ii)(B), removing the phrase "between the parties" and adding the phrase "by the lessor to the lessee" in its place.

■ f. In paragraph (r)—

■ A. On the same page, in the third column, in paragraph (r)(2)(ii), removing the phrase "specifies the payments to be made by the hospital, federally qualified health center, or rural health clinic and the terms under which the payments are" and adding the phrase "specifies the payment to be made by the hospital, federally qualified health center, or rural health clinic and the terms under which the payment is" in its place.

■ B. On page 48754, in the first column, in paragraph (r)(3)(ii)(B), removing the phrase "rural area or".

C. Corrections to the Addendum

1. On page 48827, in Table 2.— Hospital Case-Mix Indexes for Discharges Occurring in Federal Fiscal Year 2007; Hospital Wage Indexes for Federal Fiscal Year 2009; Hospital Average Hourly Wages for Federal Fiscal Years 2007 (2003 Wage Data), 2008 (2004 Wage Data), and 2009 (2005 Wage Data); and 3-Year Average of Hospital Average Hourly Wages, the FY 2009 average hourly wage and the 3-year average hourly wage for provider number 300005 are corrected to read as follows:

Provider No.	Average hourly wage FY 2009 ¹	Average hourly wage** (3 years)
300005	28.2602	28.8266

2. On page 48881, in Table 3B.—FY 2009 and 3-Year* Average Hourly Wage for Rural Areas by CBSA, the FY 2009 Average Hourly Wage and 3-Year Average Hourly wage for the CBSA Code 30 are corrected to read as follows:

CBSA code	Nonurban area	FY 2009 average hourly wage	3-Year average hourly wage
30	New Hampshire.	33.1415	32.7814

3. On pages 49044, 49046, and 49060, in Table 11.—FY 2009 MS–LTC–DRGs, Relative Weights, Geometric Average Length of Stay, and Short-Stay Outlier (SSO) Threshold, the MS–LTC–DRGs titles for the listed MS–LTC–DRGs are corrected as follows:

MS–LTC–DRG	MS–LTC–DRG Title
154	Other ear, nose, mouth, and throat diagnoses w MCC.
155	Other ear, nose, mouth, and throat diagnoses w CC.
156	Other ear, nose, mouth, and throat diagnoses w/o CC/MCC.
250	Perc cardiovasc proc w/o coronary artery stent w MCC.
251	Perc cardiovasc proc w/o coronary artery stent w/o MCC.
864	Fever.

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

Dated: September 25, 2008.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. E8–23082 Filed 9–29–08; 11:15 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 08–2062]

List of Office of Management and Budget (OMB) Approved Information Collection Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.