

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****42 CFR Parts 412 and 413**

[CMS-1498-CN2]

RIN 0938-AP80

Medicare Program; Supplemental Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Supplemental Proposed Fiscal Year 2011 Rates; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects technical and typographical errors in the supplementary proposed rule entitled "Medicare Program; Supplemental Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Supplemental Proposed Fiscal Year 2011 Rates" which appeared in the June 2, 2010 **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tzvi Heftner, (410) 786-4487.

SUPPLEMENTARY INFORMATION:**I. Background**

In FR Doc. 2010-12567 of June 2, 2010, there were technical and typographical errors that are identified and corrected in the Correction of Errors section below.

II. Summary of Errors

On page 30920, in our discussion of Frontier counties, we inadvertently omitted the term "frontier counties" when referencing the statutory definition of the term. We correct this error in section IV.A.1. of this correction notice.

On page 30921, in our discussion of the proposed revisions for FY 2011 to Table 4J, we inadvertently omitted a discussion of the data use error we made when calculating the out-migration adjustment values presented in the May 4, 2010 FY 2011 IPPS/LTCH PPS proposed rule and that the out-migration adjustment values in revised Table 4J are based on corrected wage data as well as the changes made in accordance with the Affordable Care Act. We correct this error in section IV.A.2. of this correction notice.

In our preamble discussion and the regulations text regarding payment adjustment for low-volume hospitals (pages 30924 and 30925, and pages 30972 and 30973, respectively), we made several typographical and technical errors. In the table that references the number of Medicare discharges and the payment adjustment add-on percentage, we inadvertently indicated that one of the discharge ranges was 201–301 instead of 201–300. Therefore, in section IV.B.2.b. of this correction notice, we correct this error. We also correct the other typographical and technical errors regarding the payment adjustment for low-volume hospitals in sections IV.A.3. and 4. and B.1. and 2.a. of this correction notice.

On page 30966, in our preamble discussion regarding the long-term care hospital prospective payment system (LTCH PPS), we made a typographical error in an internal cross-reference to a specific section of the preamble of the supplemental proposed rule which discussed changes to the LTCH PPS policies that were required by the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA), as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), and the Patient Protection and Affordable Care Act. We are correcting this error in section IV.A.5. of this correction notice.

On pages 31049 through 31057 in Table 4J.—Proposed Out-Migration Adjustment for Acute Care Hospitals—FY 2011, in the second column, we made an error in the fiscal year referenced in the column heading. Therefore, in section IV.C.1. of this correction notice we correct this error.

On page 31103, in our impact analysis discussion of the overall effect of geographic reclassification, we erroneously cited an adjustment of 0.995425. Therefore, in section IV.C.2. of this correction notice, we are correcting this error.

On page 31107, in our impact analysis discussion of the effects of additional payments to qualifying hospitals in low Medicare spending counties, we made errors in the figures regarding the spending for FY 2011 and FY 2012. Therefore, in section IV.C.3. of this correction notice we are correcting these errors.

On page 31117, we erroneously reference the date that the first FY 2011 hospital inpatient prospective payment systems/long-term care prospective payment system (IPPS/LTCH PPS) proposed rule appeared in the **Federal Register** as May 10, 2010 instead of May 4, 2010. Therefore, in section IV.C.4. of this correction notice, we correct these errors.

III. Waiver of 60-Day Comment Period

We ordinarily permit a 60-day comment period on notices of proposed rulemaking in the **Federal Register**, as provided in section 1871(b)(1) of the Act. However, this period may be shortened, as provided under section 1871(b)(2)(C) of the Act, when the Secretary finds good cause that a 60-day comment period would be impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

The changes made by this correction notice do not constitute agency rulemaking, and therefore the 60-day comment period does not apply. This correction notice merely corrects typographical and technical errors in the FY 2011 IPPS/LTCH PPS supplemental proposed rule and does not make substantive changes to either that proposed rule or the first FY 2011 IPPS/LTCH PPS proposed rule appearing in the May 4, 2010 **Federal Register** that would require additional time on which to comment. Instead, this correction notice is intended to ensure the accuracy of the FY 2011 IPPS/LTCH PPS supplemental proposed rule.

We further note that this document makes corrections to a supplemental proposed rule for which the Secretary has found good cause to shorten the required 60-day comment period; we refer readers to section III.B. of the FY 2011 IPPS/LTCH PPS supplemental proposed rule for additional discussion on that point. Therefore, to the extent that the 60-day comment period does apply, we find that good cause to shorten that period for the reasons set forth above, as well as for the reasons articulated in section III.B. of the FY 2011 IPPS/LTCH PPS supplemental proposed rule.

IV. Correction of Errors

In FR Doc. 2010-12567 of June 2, 2010, make the following corrections:

A. Corrections to the Preamble

1. On page 30920, third column, second full paragraph, line 10 and 11, the phrase "The statute defines as counties" is corrected to read "The statute defines Frontier Counties as counties"

2. On page 30921, first column, third full paragraph, line 4, after the sentence that ends with the phrase "Affordable Care Act." the paragraph is corrected by adding the following sentences: "Also, Table 4J is revised to include corrected out-migration adjustment values due to an error in the calculation that was used for the FY 2011 IPPS/LTCH PPS

proposed rule, which appeared in the May 4, 2010 **Federal Register**. In the FY 2011 proposed rule, the out-migration adjustment was erroneously calculated based on data from 2008, 2009, and 2010 rather than data from 2009, 2010, and 2011. The out-migration adjustment included in this FY 2011 supplemental proposed rule reflects these changes.”

3. On page 30924—

a. First column, fourth full paragraph, line 1, the word “Section” is corrected to read “Sections.”

b. Second column, first partial paragraph, line 1, the phrase “We therefore” is corrected to read “Therefore, we”

c. Third column, first full paragraph, lines 9 and 10, the phrase “under Part B,” see section 1852(a)(1)(B)(i) of the Act.” is corrected to read “under Part B.” (See section 1852(a)(1)(B)(i) of the Act.)

4. On page 30925—

a. First column second full paragraph, line 1 and 2, the reference “sections 3125(4) of Pub. L. 111–148 and 10314(2),” is corrected to read “sections 3125 and 10314 of Pub. L. 111–148.”

b. Second column, first full paragraph, last line, the phrase “qualifying criteria,” is corrected to read “qualifying criteria.”

5. On page 30966, first column, last paragraph, line 1, the reference “section XX” is corrected to read “section II.I. of the preamble of this supplemental proposed rule.”

B. Corrections to the Regulations Text

1. On page 30972, third column—
a. Second full paragraph, lines 1 and 2 (definition of Medicare discharges), the phrase “discharge of inpatients” is corrected to read “discharges of inpatients.”

b. Sixth full paragraph, line 9, the parenthetical statement “(of this section)” is corrected to read “(of this section).”

c. Eighth full paragraph, lines 3 through 9, the phrase “Medicare and non-Medicare, during” is corrected to read “Medicare and non-Medicare discharges, during”.

2. On page 30973—

a. First column, first partial paragraph, lines 1 and 2, the parenthetical phrase, “(as defined in paragraph (a) of this section)” is corrected to read “(that is, Medicare discharges as defined in paragraph (a) of this section).”

b. First column, fourth full paragraph, in the table, the Medicare discharge range “201–301” is corrected to read “201–300.”

C. Corrections to the Addendum and Appendix

1. On pages 31049 through 31057, in Table 4J.—Proposed Out-Migration Adjustment for Acute Care Hospitals—FY 2011, second column, the column heading “Reclassified for FY 2010” is

corrected to read “Reclassified for FY 2011.”

2. On page 31103, first column, first full paragraph, line 5, the figure “0.995425” is corrected to read “0.991476.”

3. On page 31107, third column, last paragraph, lines 12 and 13, the phrase “\$200 million in FY 2011 and \$200 million in FY 2012” is corrected to read “\$150 million in FY 2011 and \$250 million in FY 2012.”

4. On page 31117—

a. Top of the page,
1. First column, first partial paragraph, line 11, the date “May 10, 2010” is corrected to read “May 4, 2010.”

2. Third column, first partial paragraph, lines 10 and 11, the date “May 10, 2010” is corrected to read “May 4, 2010.”

b. Middle of the page, second column, first partial paragraph, last line, the date “May 10, 2010” is corrected to read “May 4, 2010.”

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

Dated: June 15, 2010.

Dawn L. Smalls,

Executive Secretary to the Department.

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