

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 422 and 480**

[CMS-3239-CN]

RIN 0938-AQ55

**Medicare Program; Hospital Inpatient Value-Based Purchasing Program; Correction**

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

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on May 6, 2011 (76 FR 26490) entitled “Medicare Program; Hospital Inpatient Value-Based Purchasing Program.”

**DATES:** *Effective Date:* These corrections are effective on July 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ernessa Brawley, (410) 786-2075.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In FR Doc. 2011-10568 of May 6, 2011 (76 FR 26490), there were a number of technical errors that are identified and corrected in the “Correction of Errors” section below. The provisions in this correction notice are effective as if they had been included in the document published May 6, 2011. Accordingly, the corrections are effective on July 1, 2011.

**II. Summary of Errors**

On page 26490, we made several typographical errors in the “Table of Contents” section, and on pages 26493 through 26539, we made typographical

errors to the corresponding section headings under section “II. Provisions of the Final Rule and Responses to Comments.” In the final rule preamble language, we combined section “II.A” and section “II.B” to remove redundancy in the language and titled the new combined section “II. A Overview of the January 7, 2011 Hospital Inpatient VBP Program Proposed Rule.” We inadvertently failed to reflect this combination in the table of contents and corresponding headings in the preamble language. Therefore, in section III. of this correction notice, we correct these errors.

On pages 26513 and 26516, we made technical and typographical errors with the numerical values expressed in Tables 5 and 7, respectively. In these tables, we are adjusting the “n” value used to calculate the achievement threshold and benchmark values listed in the tables, which properly reflects the performance standards we have finalized for the hospital value-based purchasing program. Therefore, in section III. 6. and 7. of this notice, we are correcting these errors in the tables.

**III. Correction of Errors**

In FR Doc. 2011-10568 of May 6, 2011 (76 FR 26490), make the following corrections:

1. On page 26490, the “Table of Contents” section is corrected to read as follows:

**Table of Contents**

- I. Background
  - A. Overview
  - B. Hospital Inpatient Quality Data Reporting Under Section 501(b) of Public Law 108-173
  - C. Hospital Inpatient Quality Reporting Under Section 5001(a) of Public Law 109-171
  - D. 2007 Report to Congress: Plan To Implement a Medicare Hospital Value-Based Purchasing Program

- E. Provisions of the Affordable Care Act
- II. Provisions of the Final Rule and Response to Comments
  - A. Overview of the January 7, 2011 Hospital Inpatient VBP Program Proposed Rule
  - B. Performance Period
  - C. Measures
  - D. Performance Standards
  - E. Methodology for Calculating the Total Performance Score
  - F. Applicability of the Value-Based Purchasing Program to Hospitals
  - G. The Exchange Function
  - H. Hospital Notification and Review Procedures
  - I. Reconsideration and Appeal Procedures
  - J. FY 2013 Validation Requirements for Hospital Value-Based Purchasing
  - K. Additional Information
  - L. QIO Quality Data Access
- III. Collection of Information Requirements
- IV. Economic Analyses
  - A. Regulatory Impact Analysis
  - B. Regulatory Flexibility Act Analysis
  - C. Unfunded Mandates Reform Act Analysis
- V. Federalism Analysis

2. On page 26494, in the third column; the section heading “C. Performance Period” is corrected to read “B. Performance Period”.

3. On page 26495, in the third column; the section heading “D. Measures” is corrected to read “C. Measures”.

4. On page 26511, in the first column; the section heading “E. Performance Standards” is corrected to read “D. Performance Standards”.

5. On page 26513, in the first column; the section heading “F. Methodology for Calculating the Total Performance Score” is corrected to read “E. Methodology for Calculating the Total Performance Score”.

6. On page 26513, Table 5 is corrected to read as follows:

**TABLE 5—ACHIEVEMENT THRESHOLDS FOR THE FY 2014 HOSPITAL VBP PROGRAM MORTALITY OUTCOME MEASURES**  
[Displayed as survival rates]

Measure ID	Measure description	Performance standard (achievement threshold)
<b>Mortality Outcome Measures</b>		
MORT-30-AMI .....	Acute Myocardial Infarction (AMI) 30-Day Mortality Rate .....	.8477
MORT-30-HF .....	Heart Failure (HF) 30-Day Mortality Rate .....	.8861
MORT-30 PN .....	Pneumonia (PN) 30-Day Mortality Rate .....	.8818

7. On page 26516, Table 7 is corrected to read as follows:

TABLE 7—FINAL BENCHMARKS FOR THE FY 2014 HOSPITAL VBP PROGRAM MORTALITY OUTCOME MEASURES  
[Displayed as survival rates]

Measure ID	Measure description	Benchmark
<b>Mortality Outcome Measures</b>		
MORT-30-AMI .....	Acute Myocardial Infarction (AMI) 30-Day Mortality Rate .....	.8673
MORT-30-HF .....	Heart Failure (HF) 30-Day Mortality Rate .....	.9042
MORT-30 PN .....	Pneumonia (PN) 30-Day Mortality Rate .....	.9021

8. On page 26527, in the first column; the section heading “G. Applicability of the Value-Based Purchasing Program” Hospitals is corrected to read “F. Applicability of the Value-Based Purchasing Program to Hospitals”.

9. On page 26531, in the first column; the section heading “H. Exchange Function” is corrected to read “G. The Exchange Function”.

10. On page 26534, in the second column; the section heading “I. Hospital Notification and Review Procedures” is corrected to read “H. Hospital Notification and Review Procedures”.

11. On page 26536, in the third column; the section heading “J. Reconsideration and Appeal Procedures” is corrected to read “I. Reconsideration and Appeal Procedures”.

12. On page 26537, in the first column; the section heading “K. FY 2013 Validation Requirements for Hospital Value-Based Purchasing” is corrected to read “J. FY 2013 Validation Requirements for Hospital Value-Based Purchasing”.

13. On page 26538, in the first column; the section heading “L. Additional Information” is corrected to read “K. Additional Information”.

14. On page 26539, in the second column; the section heading “M. QIO Quality Data Access” is corrected to read “L. QIO Quality Data Access”.

#### IV. Waiver of Proposed Rulemaking

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.

This notice merely corrects technical and typographic errors in the Hospital Inpatient Value-Based Purchasing Program final rule that was published on May 6, 2011 and becomes effective on July 1, 2011. The changes are not substantive changes to the policies or payment methodologies. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delaying the effective date of these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay the dissemination of it. For the reasons stated above, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

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

Dated: June 28, 2011.

**Dawn L. Smalls,**

*Executive Secretary to the Department.*

[FR Doc. 2011-16763 Filed 7-1-11; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary of the Interior

#### 43 CFR Part 10

#### RIN 1024-AD98

#### Native American Graves Protection and Repatriation Act Regulations—Definition of “Indian Tribe”

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This amendment to the Department’s regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) removes the definition of “Indian tribe,” because it is inconsistent with the statutory definition of that term.

**DATES:** This rule is effective July 5, 2011. Comments must be received by September 6, 2011.

**ADDRESSES:** You may submit comments, identified by the Regulation Identifier Number (RIN) 1024-AD98, by any of the following methods:

—*Federal rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

—*Mail to:* Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW., (2253), Washington, DC 20005.

—*Hand deliver to:* Dr. Sherry Hutt, 1201 Eye Street, NW., 8th floor, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW., 8th floor, Washington, DC 20005, telephone (202) 354-1479, facsimile (202) 371-5197.

#### SUPPLEMENTARY INFORMATION:

#### Authority

The Secretary is responsible for implementation of the Native American Graves Protection and Repatriation Act, including the issuance of appropriate regulations implementing and interpreting its provisions. See 25 U.S.C. 3001 *et seq.*

#### Background

The Native American Graves Protection and Repatriation Act (NAGPRA) addresses the rights of lineal descendants, Indian Tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. NAGPRA defines “Indian tribe” as “any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) (43