

regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 2, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 10, 2019.

Mary S. Walker,
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP—South Carolina

- 2. Section 52.2120(e), is amended by adding an entry for “110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone NAAQS” at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) * * *

Provision	State effective date	EPA approval date	Explanation
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone NAAQS.	6/18/2018	1/2/2020 [Insert citation of publication].	Addressing prongs 1 and 2 of section 110(a)(2)(D)(i)(I) only.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 402, 403, 411, 412, 422, 423, 460, 483, 488, and 493

[CMS-6076-RCN]

RIN 0991-AC07

Medicare and Medicaid Programs; Adjustment of Civil Monetary Penalties for Inflation; Continuation of Effectiveness and Extension of Timeline for Publication of the Final Rule

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

ACTION: Continuation of effectiveness and extension of timeline for publication of the final rule.

SUMMARY: This document announces the continuation of, effectiveness of, and the extension of the timeline for publication of a final rule. We are issuing this document in accordance with the Social

Security Act (the Act), which allows an interim final rule to remain in effect after the expiration of the timeline specified in the Act if the Secretary publishes a notice of continuation explaining why the regular timeline was not complied with.

DATES: Effective December 31, 2019, the Medicare provisions adopted in the interim final rule published on September 6, 2016 (81 FR 61538) continue in effect and the regular timeline for publication of the final rule is extended for an additional year, until September 6, 2020.

FOR FURTHER INFORMATION CONTACT: Steve Forry (410) 786-1564 or Jacqueline Cipa (410) 786-3259.

SUPPLEMENTARY INFORMATION: Section 1871(a) of the Social Security Act (the Act) sets forth certain procedures for promulgating regulations necessary to carry out the administration of the insurance programs under Title XVIII of the Act. Section 1871(a)(3)(A) of the Act requires the Secretary, in consultation with the Director of the Office of Management and Budget (OMB), to establish a regular timeline for the publication of final regulations based on the previous publication of a proposed rule or an interim final rule. In accordance with section 1871(a)(3)(B) of

the Act, such timeline may vary among different rules, based on the complexity of the rule, the number and scope of the comments received, and other relevant factors. However, the timeline for publishing the final rule, cannot exceed 3 years from the date of publication of the proposed or interim final rule, unless there are exceptional circumstances. After consultation with the Director of OMB, the Secretary published a notice, which appeared in the December 30, 2004 **Federal Register** on (69 FR 78442), establishing a general 3-year timeline for publishing Medicare final rules after the publication of a proposed or interim final rule.

Section 1871(a)(3)(C) of the Act states that upon expiration of the regular timeline for the publication of a final regulation after opportunity for public comment, a Medicare interim final rule shall not continue in effect unless the Secretary publishes notification of continuation of the regulation that includes an explanation of why the regular timeline was not met. Upon publication of such notification, the regular timeline for publication of the final regulation is treated as having been extended for 1 additional year.

On September 6, 2016 **Federal Register** (81 FR 61538), the Department

of Health and Human Services (HHS) issued a department-wide interim final rule titled “Adjustment of Civil Monetary Penalties for Inflation” that established new regulations at 45 CFR part 102 to adjust for inflation the maximum civil monetary penalty amounts for the various civil monetary penalty authorities for all agencies within the Department. HHS took this action to comply with the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) (28 U.S.C. 2461 note 2(a)), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (section 701 of the Bipartisan Budget Act of 2015, (Pub. L. 114–74), enacted on November 2, 2015). In addition, this September 2016 interim final rule included updates to certain agency-specific regulations to reflect the new provisions governing the adjustment of civil monetary penalties for inflation in 45 CFR part 102.

One of the purposes of the Inflation Adjustment Act was to create a mechanism to allow for regular inflationary adjustments to federal civil monetary penalties. Section 2(b)(1) of the Inflation Adjustment Act. The 2015 amendments removed an inflation update exclusion that previously applied to the Social Security Act as well as to the Occupational Safety and Health Act. The 2015 amendments also “reset” the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act and requiring agencies to identify, for each penalty, the year and corresponding amount(s) for which the maximum penalty level or range of minimum and maximum penalties was established (that is, originally enacted by Congress) or last adjusted other than pursuant to the Inflation Adjustment Act. In accordance with section 4 of the Inflation Adjustment Act, agencies were required to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through an interim final rulemaking (IFR) to take effect by August 1, 2016; and (2) make subsequent annual adjustments for inflation.

In the September 2016 interim final rule, HHS adopted new regulations at 45 CFR part 102 to govern adjustment of civil monetary penalties for inflation. The regulation at 45 CFR 102.1 provides that part 102 applies to each statutory provision under the laws administered by the Department of Health and Human Services concerning civil monetary penalties, and that the regulations in part 102 supersede existing HHS regulations setting forth civil monetary penalty amounts. The civil money

penalties and the adjusted penalty amounts administered by all HHS agencies are listed in tabular form in 45 CFR 102.3. In addition to codifying the adjusted penalty amounts identified in § 102.3, the HHS-wide interim final rule included several technical conforming updates to certain agency-specific regulations, including various CMS regulations, to identify their updated information, and incorporate a cross-reference to the location of HHS-wide regulations.

Because the conforming changes to the Medicare provisions were part of a larger, omnibus departmental interim final rule, we inadvertently missed setting a target date for the final rule to make permanent the changes to the Medicare regulations in accordance with section 1871(a)(3)(A) of the Act and the procedures outlined in the December 2004 notice. Consistent with section 1871(a)(3)(C) of the Act, we are publishing this notice of continuation extending the effectiveness of the technical conforming changes to the Medicare regulations that were implemented through interim final rule and to allow time to publish a final rule. The extended time is needed to allow for coordination with the Department to issue a final rule and to avoid the potential for confusion between 45 CFR part 102, which establishes the civil monetary payment amounts, and the Medicare regulations subject to the timing requirements in section 1871(a)(3)(C) of the Act which would otherwise revert to the language that was used prior to the Inflation Adjustment Act. Therefore, the Medicare provisions adopted in interim final regulation continue in effect and the regular timeline for publication of the final rule is extended for an additional year, until September 6, 2020.

Dated: December 19, 2019.

Ann C. Agnew,

*Executive Secretary to the Department,
Department of Health and Human Services.*

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 403, 409, 410, 411, 414, 415, 416, 418, 424, 425, 489, and 498

[CMS-1715-CN]

RIN 0938-AT72

Medicare Program; CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicaid Promoting Interoperability Program Requirements for Eligible Professionals; Establishment of an Ambulance Data Collection System; Updates to the Quality Payment Program; Medicare Enrollment of Opioid Treatment Programs and Enhancements to Provider Enrollment Regulations Concerning Improper Prescribing and Patient Harm; and Amendments to Physician Self-Referral Law Advisory Opinion Regulations Final Rule; and Coding and Payment for Evaluation and Management, Observation and Provision of Self-Administered Esketamine Interim Final Rule; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the final rule that appeared in the November 15, 2019 *Federal Register* entitled, “Medicare Program; CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicaid Promoting Interoperability Program Requirements for Eligible Professionals; Establishment of an Ambulance Data Collection System; Updates to the Quality Payment Program; Medicare Enrollment of Opioid Treatment Programs and Enhancements to Provider Enrollment Regulations Concerning Improper Prescribing and Patient Harm; and Amendments to Physician Self-Referral Law Advisory Opinion Regulations Final Rule; and Coding and Payment for Evaluation and Management, Observation and Provision of Self-Administered Esketamine Interim Final Rule” (referred to hereafter as the “CY 2020 PFS final rule”).

DATES: This correcting document is effective January 1, 2020.