(2) For ADLTs that are not new ADLTs, every year beginning January 1, 2017.

(3) For new ADLTs—

(i) Initially, no later than the last day of the second quarter of the new ADLT initial period; and

(ii) Thereafter, every year.

(b) Applicable information must be reported in the form and manner specified by CMS.

(c) A laboratory seeking new ADLT status for its test must, in its new ADLT application, attest to the actual list charge.

(d) To certify data integrity, the President, CEO, or CFO of a reporting entity, or an individual who has been delegated authority to sign for, and who reports directly to, such an officer, must sign the certification statement and be responsible for assuring that the data provided are accurate, complete, and truthful, and meets all the reporting parameters described in this section.

(e) If the Secretary determines that a reporting entity has failed to report applicable information for its applicable laboratories, or made a misrepresentation or omission in reporting applicable information for its applicable laboratories, the Secretary may apply a civil monetary penalty to a reporting entity in an amount of up to $10,000 per day, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of the Bipartisan Budget Act of 2015, Pub. L. 114–74, November 2, 2015), for each failure to report or each such misrepresentation or omission. The provisions for civil monetary penalties that apply in general to the Medicare program under 42 U.S.C. 1320a–7b apply in the same manner to the laboratory data reporting process under this section.

(f) CMS or its contractors will not disclose applicable information reported to CMS under this section in a manner that would identify a specific payor or laboratory, or prices charged or payments made to a laboratory, except to permit the Comptroller General, the Director of the Congressional Budget Office, and the Medicare Payment Advisory Commission, to review the information, or as CMS determines is necessary to implement this subpart, such as disclosures to the HHS Office of Inspector General or the Department of Justice for oversight and enforcement activities.

(g) Applicable information may not be reported for an entity that does not meet the definition of an applicable laboratory. For a single laboratory that offers and furnishes an ADLT that is not an applicable laboratory except with respect to its ADLTs, the applicable information of its CDLTs that are not ADLTs may not be reported.

[81 FR 41099, June 23, 2016, as amended at 85 FR 85028, Dec. 28, 2020; 87 FR 70225, Nov. 18, 2022]

§ 414.506 Procedures for public consultation for payment for a new clinical diagnostic laboratory test.

For a new CDLT, CMS determines the basis for and amount of payment after performance of the following:

(a) CMS makes available to the public (through CMS's Internet Web site) a list that includes codes for which establishment of a payment amount is being considered for the next calendar year.

(b) CMS publishes a FEDERAL REGISTER notice of a meeting to receive public comments and recommendations (and data on which recommendations are based) on the appropriate basis, as specified in § 414.508, for establishing payment amounts for the list of codes made available to the public.

(c) Not fewer than 30 days after publication of the notice in the FEDERAL REGISTER, CMS convenes a meeting that includes representatives of CMS officials involved in determining payment amounts, to receive public comments and recommendations (and data on which the recommendations are based).

(d) Considering the comments and recommendations (and accompanying data) received at the public meeting, CMS develops and makes available to the public (through an Internet Web site and other appropriate mechanisms) a list of—

(1) Proposed determinations with respect to the appropriate basis for establishing a payment amount for each code, with an explanation of the reasons for each determination, the data on which the determinations are based,

including recommendations from the Advisory Panel on CDLTs described in paragraph (e) of this section, and a request for written public comments within a specified time period on the proposed determination; and

(2) Final determinations of the payment amounts for tests, with the rationale for each determination, the data on which the determinations are based, and responses to comments and suggestions from the public.

(3) On or after January 1, 2018, in applying paragraphs (d)(1) and (2) of this section, CMS will provide an explanation of how it took into account the recommendations of the Advisory Panel on CDLTs described in paragraph (e) of this section.

(4) On or after January 1, 2018, in applying paragraphs (d)(1) and (2) of this section and § 414.509(b)(2)(i) and (iii) when CMS uses the gapfilling method described in § 414.508(b)(2), CMS will make available to the public an explanation of the payment rate for the test.

(e) CMS will consult with an expert outside advisory panel, called the Advisory Panel on CDLTs, composed of an appropriate selection of individuals with expertise, which may include molecular pathologists researchers, and individuals with expertise in laboratory science or health economics, in issues related to CDLTs. This advisory panel will provide input on the establishment of payment rates under § 414.508 and provide recommendations to CMS under this subpart.

[71 FR 69786, Dec. 1, 2006, as amended at 72 FR 66401, Nov. 27, 2007; 81 FR 41099, June 23, 2016]

§ 414.507 Payment for clinical diagnostic laboratory tests.

(a) *General rule.* Except as provided in paragraph (d) of this section, and §§ 414.508 and 414.522, the payment rate for a CDLT furnished on or after January 1, 2018, is equal to the weighted median for the test, as calculated under paragraph (b) of this section. Each payment rate will be in effect for a period of one calendar year for ADLTs and three calendar years for all other CDLTs, until the year following the next data collection period.

(b) *Methodology.* For each test under paragraph (a) of this section for which applicable information is reported, the weighted median is calculated by arraying the distribution of all private payor rates, weighted by the volume for each payor and each laboratory.

(c) The payment amounts established under this section are not subject to any adjustment, such as geographic, budget neutrality, annual update, or other adjustment.

(d) *Phase-in of payment reductions.* For years 2018 through 2025, the payment rates established under this section for each CDLT that is not a new ADLT or new CDLT, may not be reduced by more than the following amounts for—

(1) 2018—10 percent of the national limitation amount for the test in 2017.

(2) 2019—10 percent of the payment rate established in 2018.

(3) 2020—10 percent of the payment rate established in 2019.

(4) 2021—0.0 percent of the payment rate established in 2020.

(5) 2022—0.0 percent of the payment rate established in 2021.

(6) 2023—15 percent of the payment rate established in 2022.

(7) 2024—15 percent of the payment rate established in 2023.

(8) 2025—15 percent of the payment rate established in 2024.

(e) There is no administrative or judicial review under sections 1869 and 1878 of the Social Security Act, or otherwise, of the payment rates established under this subpart.

(f) For a CDLT for which CMS receives no applicable information, payment is made based on the crosswalking or gapfilling methods described in § 414.508(b)(1) and (2).

(g) For ADLTs that are furnished between April 1, 2014 and December 31, 2017, payment is based on the crosswalking or gapfilling methods described in § 414.508(a).

[81 FR 41099, June 23, 2016, as amended at 85 FR 85028, Dec. 28, 2020; 87 FR 70225, Nov. 18, 2022]

§ 414.508 Payment for a new clinical diagnostic laboratory test.

(a) For a new CDLT that is assigned a new or substantially revised code between January 1, 2005 and December 31, 2017, CMS determines the payment amount based on either of the following: