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Centers for Medicare & Medicaid Services

42 CFR Parts 413 and 424

[CMS-1446-CN3]

RIN 0938-AR65

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2014; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the correcting document that appeared in the January 2, 2014 **Federal Register** entitled “Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2014; Correction.”

DATES: Effective Date: This correcting document is effective [insert date of filing for public inspection at the Office of the Federal Register].

Applicability Date: This correcting document is applicable to skilled nursing facility services furnished on or after January 1, 2014.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In the August 6, 2013 **Federal Register** (78 FR 47936), we published a final rule entitled “Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2014” (hereinafter referred to as the FY 2014 SNF PPS final rule). To correct typographical and technical errors in the FY 2014 SNF PPS final rule, we published correcting documents that appeared in the October 3, 2013 **Federal**

Register (78 FR 61202) and the January 2, 2014 **Federal Register** (79 FR 63). We left out the applicability date from the “DATES” section of the January 2, 2014 correcting document; therefore, in this correcting document, we add the applicability date.

II. Summary of Errors

On page 63 of the January 2, 2014 correcting document (79 FR 63), we inadvertently omitted the applicability date from the “DATES” section.

III. Waiver of Proposed Rulemaking and Delay of 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 therefor 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.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document simply adds the applicability date that was inadvertently omitted and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule.

In addition, even if this correcting document were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the correction in this document into the January 2, 2014 correcting document (which corrected the FY 2014 SNF PPS final rule) or delaying the effective date would be contrary to the public interest, because it is in the public's interest for providers to receive appropriate SNF PPS payments in as timely a manner as possible. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, are simply adding the applicability date that was inadvertently omitted. Therefore, we find good cause to waive notice and comment procedures, as well as the 30-day delay in effective date.

IV. Correction of Errors

In FR Doc. 2013-31435 of January 2, 2014 (79 FR 63), make the following corrections:

1. On page 63, in the DATES section, the caption and sentence, “**DATES:** Effective Date: This correction is effective January 2, 2014.” are corrected to read as follows:
“**DATES:** Effective Date: This correcting document is effective January 2, 2014.
Applicability Date: This correcting document is applicable to skilled nursing facility services furnished on or after January 1, 2014.”

CMS-1446-CN3

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

Dated: January 6, 2014.

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

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