



This document is scheduled to be published in the Federal Register on 10/05/2015 and available online at <http://federalregister.gov/a/2015-25268>, and on FDsys.gov

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 483

[CMS-1622-CN]

RIN 0938-AS44

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2016, SNF Value-Based Purchasing Program, SNF Quality Reporting Program, and Staffing Data Collection; 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 **Federal Register** on August 4, 2015 entitled “Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNFs) for FY 2016, SNF Value-Based Purchasing Program, SNF Quality Reporting Program, and Staffing Data Collection.”

DATES: This document is effective October 1, 2015.

FOR FURTHER INFORMATION CONTACT: John Kane, (410) 786-0557, for information related to SNF PPS. Charlayne Van, (410) 786-8659, for information related to SNF QRP.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2015-18950 of August 4, 2015 (80 FR 46389), there were a number of technical errors that are identified and corrected in section IV of this correcting document. The provisions in this correcting document are effective as if they had been included in the document that appeared on August 4, 2015 in the **Federal Register** (hereinafter referred to as the FY 2016 SNF PPS final rule).

Accordingly, the corrections are effective October 1, 2015.

II. Summary of Errors

A. Summary of Errors in the Preamble

On pages 46436, 46437, 46439, 46450 and 46452 we inadvertently made typographical and other technical errors.

On pages 46400 and 46405, where we provide a link to the CMS Web Site listing the wage index for FY 2016, we inadvertently omitted reference to Table B. These pages are being corrected to state that the wage index applicable for FY 2016 is set forth in Tables A and B available on the CMS Web Site.

B. Summary of Errors in and Corrections to Tables Posted on the CMS Web site

In Table A setting forth the Wage Index for Urban Areas Based on CBSA Labor Market Areas, which is available exclusively on the CMS Web site at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html>, following the complete list of correct wage index values, we inadvertently included a number of additional, erroneous values in the final wage index table. The version of Table A that was initially posted to the CMS Web site on July 30, 2015 correctly included all of the final wage index values for all CBSAs in rows 1 through 1238, but also inadvertently

included some of the proposed wage index values, beginning in row 1240 of Table A. Therefore, we eliminated the additional, erroneous values beyond row 1238 of the table posted to the CMS Web site.

Additionally, Table B posted to the CMS Web site, which provides the non-urban wage index values by state had Column A mislabeled as “CBSA” while it should have read “State Code” and Column B mislabeled as “Urban Area” while it should have read “Non-urban Area”. Therefore, in Table B, the header for Column A has been changed from “CBSA” to “State Code” and the header for Column B has been changed from “Urban Area” to “Non-Urban Area”.

In addition, on page 49492 of the FY 2016 hospital inpatient prospective payment system (IPPS) final rule (80 FR 49325, August 17, 2015), the estimated percentage change in the employment cost index (ECI) for compensation for the 30-day increment after March 14, 2013, and before April 15, 2013, for private industry hospital workers from the Bureau of Labor Statistics' (BLS') “Compensation and Working Conditions” was inadvertently miscalculated. The ECI is used to adjust a hospital's wage data to calculate the wage index, and is based on the midpoint of a cost reporting period. This technical error necessitated recalculation of the pre-reclassified unadjusted and occupational mix adjusted wage indexes and Geographic Adjustment Factors (GAFs) of certain core-based statistical areas (CBSAs).

This error is identified, discussed and corrected in the Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System Policy Changes and Fiscal Year 2016 Rates; Revisions of Quality Reporting

Requirements for Specific Providers, including Changes Related to the Electronic Health Record Incentive Program; Extensions of the Medicare-Dependent, Small Rural Hospital Program and the Low-Volume Payment Adjustment for Hospitals; Correction that appears elsewhere in this issue of the **Federal Register**.

This error affected the adjustment factor applied to four hospitals with FY 2013 cost reporting periods that have midpoints after March 14, 2013 and before April 15, 2013, which in turn affected the wage index values for these hospitals and the areas in which they are located. One of these hospitals is geographically located in non-urban Arkansas (State Code 04), two hospitals are geographically located in non-urban Maine (State Code 20), and one urban hospital is located in Maine (CBSA 12620). Thus, the pre-reclassified unadjusted wage indexes for these three areas were calculated incorrectly. We are correcting the wage indexes for these three areas in Table A and Table B accordingly on the CMS Web site at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html>. Specifically, the wage index value for CBSA 12620 has been corrected from 0.9845 to 0.9980, the wage index value for State Code 04 (Arkansas) has been corrected from 0.7217 to 0.7219, and the wage index value for State Code 20 (Maine) has been corrected from 0.8455 to 0.8477.

III. Waiver of Proposed Rulemaking and Delayed 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 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.

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 corrects technical and typographic errors in the FY 2016 SNF PPS final rule and in the tables issued in connection with the final rule, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the information in the FY 2016 SNF PPS final rule accurately reflects the policies adopted in that final rule.

In addition, even if this 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 corrections in this document into the 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 payments in as timely a manner as possible, and to

ensure that the FY 2016 SNF PPS final rule and the tables issued in connection with the final rule accurately reflect our methodologies, payment rates and policies. Furthermore, such procedures would be unnecessary, as we are not making substantive changes to our payment methodologies or policies, but rather, we are simply implementing correctly the methodologies and policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2016 SNF PPS final rule and the tables issued in connection with the final rule accurately reflect these methodologies and policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In the FR Doc. 2015-18950 of August 4, 2015 (80 FR 46389), make the following corrections:

1. On page 46400, bottom half of the page, third column, first partial paragraph, line 14, the phrase “Table A” is corrected to read “Tables A and B”.
2. On page 46405, top third of the page, third column, first partial paragraph, line 2, the phrase “Table A” is corrected to read “Tables A and B”.
3. On page 46436, first column, footnote 38:
 - a. Line 1, the term “Nation” is corrected to read “National”.
 - b. Line 2, the term “Standardbreds” is corrected to read “Standards”.
 - c. Line 3, the term “Minutes” is corrected to read “Transcript”.
4. On page 46437, first column, first partial paragraph, line 19, the phrase “are not” is

corrected to read “will not be”.

5. On page 46439, third column, first partial paragraph, lines 7 through 8, the phrase “unstageable and sDTIs” is corrected to read “unstageable pressure ulcers and sDTIs”.

6. Page 46450, third column, first partial paragraph, line 23, the phrase “input from clinicians would be” is corrected to read “input from clinicians who would be”.

7. Page 46452, second column, footnote 86, “86 Peter C. Smith, Elias Mossialos, Irene Papanicolas and Sheila Leatherman. Performance Measurement for Health” is corrected to read “86 Lisa I. Iezzoni, “Risk Adjustment for Performance Management”. In Performance Measurement for Health System Improvement: Experiences, Challenges and Prospects, ed. Peter C. Smith, Elias Mossialos, Irene Papanicolas and Sheila Leatherman. (Cambridge, UK: Cambridge University Press, 2009), 261-262.”.

CMS-1622-CN

Dated: September 30, 2015.

Madhura Valverde,

Executive Secretary to the Department,

Department of Health and Human Services.

BILLING CODE 4120-01-P

[FR Doc. 2015-25268 Filed: 9/30/2015 04:15 pm; Publication Date: 10/5/2015]