



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 411, 413, and 424

[CMS-1696-CN]

RIN 0938-AT24

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Final Rule for FY 2019, SNF Value-Based Purchasing Program, and SNF Quality Reporting Program; 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 August 8, 2018 **Federal Register** (83 FR 39162) entitled “Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Final Rule for FY 2019, SNF Value-Based Purchasing Program, and SNF Quality Reporting Program.”

DATES: The corrections in this document are effective October 1, 2018.

FOR FURTHER INFORMATION CONTACT: John Kane, (410) 786-0557.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2018-16570 of August 8, 2018 (83 FR 39162 through 39290), there were a number of technical errors that are identified and corrected in Correction of Errors section (section IV. of this correction notice). The provisions in this correcting document are effective as if they had been included in the document that appeared in the August 8, 2018 **Federal Register** (83 FR 39162 through 39290) (hereinafter referred to as the FY 2019 SNF PPS final

rule).

Accordingly, the corrections in this document are effective October 1, 2018.

II. Summary of Errors

A. Summary of Errors in the Preamble

On pages 39170 through 39172, 39222, 39285 and 39287, we made inadvertent technical errors. Specifically, in Tables 6 and 7 on pages 39170 through 39172 of the FY 2019 SNF PPS final rule, we made errors in copying values into the “total rate” column of the tables used in the final rule preamble, so the numbers in this column did not accurately reflect the total case-mix adjusted federal per diem rates. On page 39222, we made a typographical error in Table 27 in the MDS item number reference (column 2) associated with one of the conditions and extensive services used for NTA classification. Additionally, in Table 45 on page 39285 of the FY 2019 SNF PPS final rule, we misordered the ownership labels in the table as “Government, Profit, Non-Profit”, instead of “Profit, Non-Profit, Government.” Finally, on page 39287, we inadvertently typed “urban rural West South Central region,” when we intended to state “rural West South Central region.”

The corrections to these errors are found in section IV. of this document.

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

We are correcting the wage indexes in Tables A and B setting forth the wage indexes for urban areas based on CBSA labor market areas (Table A) and the wage indexes for rural areas based on CBSA labor market areas (Table B), which are available exclusively on the CMS Web site at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html>. As discussed in the FY 2019 SNF PPS final rule (83 FR 39172 through 39178), in developing the wage index to be applied to SNFs under the SNF PPS, we use the updated, pre-reclassified, pre-rural floor hospital inpatient PPS (IPPS) wage data,

exclusive of the occupational mix adjustment. For FY 2019, the updated, unadjusted, pre-reclassified, pre-rural floor IPPS wage data used under the SNF PPS are for cost reporting periods beginning on or after October 1, 2014 and before October 1, 2015 (FY 2015 cost report data), as discussed in the final rule entitled, “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2019 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (Promoting Interoperability Programs) Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Medicare Cost Reporting Requirements; and Physician Certification and Recertification of Claims” (83 FR41144, 41364) (hereinafter referred to as the FY 2019 IPPS final rule). In calculating the wage index under the FY 2019 IPPS final rule, we made inadvertent errors related to the calculation of the wage index. These errors are identified, discussed and corrected in the correction notice entitled, “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2019 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (Promoting Interoperability Programs) Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Medicare Cost Reporting Requirements; and Physician Certification and Recertification of Claims; Correction.” Among the errors discussed there, the two errors that affect the unadjusted, pre-reclassified, pre-rural floor IPPS wage data, and thereby affect the SNF PPS wage data were errors in the wage data collected from the Medicare cost reports of one hospital (CMS Certification Number (CCN) 100044 – CBSA 38940 Port St. Lucie, Florida) and the mistaken inclusion of a Critical Access Hospital (CAH) in the wage data (CCN 060016 – CBSA 06

Colorado). Finally, in constructing Table A, we made errors in copying values into the “wage index” column of the table posted to the CMS website.

Given these errors, we are republishing the wage indexes in Tables A and B accordingly on the CMS Web site at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/WageIndex.html>.

III. Waiver of Proposed Rulemaking and Delayed Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well.

Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document corrects

technical errors in the FY 2019 SNF PPS final rule and in the tables referenced in 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 correction notice is intended to ensure that the information in the FY 2019 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 2019 SNF PPS final rule and the tables referenced in 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, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2019 SNF PPS final rule and the tables referenced in 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 FR Doc. 2018-16570 of August 8, 2018 (83 FR 39162), make the following corrections:

1. On pages 39170 through 39171, TABLE 6--RUG-IV Case-Mix Adjusted Federal Rates and Associated Indexes—Urban is corrected to read as follows:

TABLE 6--RUG-IV Case-Mix Adjusted Federal Rates and Associated Indexes - Urban

RUG-IV Category	Nursing Index	Therapy Index	Nursing Component	Therapy Component	Non-case Mix Therapy Comp	Non-case Mix Component	Total Rate
RUX	2.67	1.87	\$484.44	\$255.57		\$92.60	\$832.61
RUL	2.57	1.87	\$466.30	\$255.57		\$92.60	\$814.47
RVX	2.61	1.28	\$473.56	\$174.94		\$92.60	\$741.10
RVL	2.19	1.28	\$397.35	\$174.94		\$92.60	\$664.89
RHX	2.55	0.85	\$462.67	\$116.17		\$92.60	\$671.44
RHL	2.15	0.85	\$390.10	\$116.17		\$92.60	\$598.87
RMX	2.47	0.55	\$448.16	\$75.17		\$92.60	\$615.93
RML	2.19	0.55	\$397.35	\$75.17		\$92.60	\$565.12
RLX	2.26	0.28	\$410.05	\$38.27		\$92.60	\$540.92
RUC	1.56	1.87	\$283.05	\$255.57		\$92.60	\$631.22
RUB	1.56	1.87	\$283.05	\$255.57		\$92.60	\$631.22
RUA	0.99	1.87	\$179.63	\$255.57		\$92.60	\$527.80
RVC	1.51	1.28	\$273.97	\$174.94		\$92.60	\$541.51
RVB	1.11	1.28	\$201.40	\$174.94		\$92.60	\$468.94
RVA	1.10	1.28	\$199.58	\$174.94		\$92.60	\$467.12
RHC	1.45	0.85	\$263.09	\$116.17		\$92.60	\$471.86
RHB	1.19	0.85	\$215.91	\$116.17		\$92.60	\$424.68
RHA	0.91	0.85	\$165.11	\$116.17		\$92.60	\$373.88
RMC	1.36	0.55	\$246.76	\$75.17		\$92.60	\$414.53
RMB	1.22	0.55	\$221.36	\$75.17		\$92.60	\$389.13
RMA	0.84	0.55	\$152.41	\$75.17		\$92.60	\$320.18
RLB	1.50	0.28	\$272.16	\$38.27		\$92.60	\$403.03
RLA	0.71	0.28	\$128.82	\$38.27		\$92.60	\$259.69
ES3	3.58		\$649.56		\$18.00	\$92.60	\$760.16
ES2	2.67		\$484.44		\$18.00	\$92.60	\$595.04
ES1	2.32		\$420.94		\$18.00	\$92.60	\$531.54
HE2	2.22		\$402.80		\$18.00	\$92.60	\$513.40
HE1	1.74		\$315.71		\$18.00	\$92.60	\$426.31
HD2	2.04		\$370.14		\$18.00	\$92.60	\$480.74
HD1	1.60		\$290.30		\$18.00	\$92.60	\$400.90
HC2	1.89		\$342.92		\$18.00	\$92.60	\$453.52
HC1	1.48		\$268.53		\$18.00	\$92.60	\$379.13
HB2	1.86		\$337.48		\$18.00	\$92.60	\$448.08
HB1	1.46		\$264.90		\$18.00	\$92.60	\$375.50
LE2	1.96		\$355.62		\$18.00	\$92.60	\$466.22
LE1	1.54		\$279.42		\$18.00	\$92.60	\$390.02
LD2	1.86		\$337.48		\$18.00	\$92.60	\$448.08
LD1	1.46		\$264.90		\$18.00	\$92.60	\$375.50
LC2	1.56		\$283.05		\$18.00	\$92.60	\$393.65
LC1	1.22		\$221.36		\$18.00	\$92.60	\$331.96
LB2	1.45		\$263.09		\$18.00	\$92.60	\$373.69
LB1	1.14		\$206.84		\$18.00	\$92.60	\$317.44
CE2	1.68		\$304.82		\$18.00	\$92.60	\$415.42
CE1	1.50		\$272.16		\$18.00	\$92.60	\$382.76
CD2	1.56		\$283.05		\$18.00	\$92.60	\$393.65
CD1	1.38		\$250.39		\$18.00	\$92.60	\$360.99
CC2	1.29		\$234.06		\$18.00	\$92.60	\$344.66
CC1	1.15		\$208.66		\$18.00	\$92.60	\$319.26
CB2	1.15		\$208.66		\$18.00	\$92.60	\$319.26
CB1	1.02		\$185.07		\$18.00	\$92.60	\$295.67
CA2	0.88		\$159.67		\$18.00	\$92.60	\$270.27

RUG-IV Category	Nursing Index	Therapy Index	Nursing Component	Therapy Component	Non-case Mix Therapy Comp	Non-case Mix Component	Total Rate
CA1	0.78		\$141.52		\$18.00	\$92.60	\$252.12
BB2	0.97		\$176.00		\$18.00	\$92.60	\$286.60
BB1	0.90		\$163.30		\$18.00	\$92.60	\$273.90
BA2	0.70		\$127.01		\$18.00	\$92.60	\$237.61
BA1	0.64		\$116.12		\$18.00	\$92.60	\$226.72
PE2	1.50		\$272.16		\$18.00	\$92.60	\$382.76
PE1	1.40		\$254.02		\$18.00	\$92.60	\$364.62
PD2	1.38		\$250.39		\$18.00	\$92.60	\$360.99
PD1	1.28		\$232.24		\$18.00	\$92.60	\$342.84
PC2	1.10		\$199.58		\$18.00	\$92.60	\$310.18
PC1	1.02		\$185.07		\$18.00	\$92.60	\$295.67
PB2	0.84		\$152.41		\$18.00	\$92.60	\$263.01
PB1	0.78		\$141.52		\$18.00	\$92.60	\$252.12
PA2	0.59		\$107.05		\$18.00	\$92.60	\$217.65
PA1	0.54		\$97.98		\$18.00	\$92.60	\$208.58

2. On pages 39171 through 39172, TABLE 7--RUG-IV Case-Mix Adjusted Federal Rates and Associated Indexes - Rural is corrected to read as follows:

TABLE 7--RUG-IV Case-Mix Adjusted Federal Rates and Associated Indexes - Rural

RUG-IV	Nursing Index	Therapy Index	Nursing Component	Therapy Component	Non-case Mix Therapy Comp	Non-case Mix Component	Total Rate
RUX	2.67	1.87	\$462.82	\$294.71		\$94.31	\$851.84
RUL	2.57	1.87	\$445.48	\$294.71		\$94.31	\$834.50
RVX	2.61	1.28	\$452.42	\$201.73		\$94.31	\$748.46
RVL	2.19	1.28	\$379.61	\$201.73		\$94.31	\$675.65
RHX	2.55	0.85	\$442.02	\$133.96		\$94.31	\$670.29
RHL	2.15	0.85	\$372.68	\$133.96		\$94.31	\$600.95
RMX	2.47	0.55	\$428.15	\$86.68		\$94.31	\$609.14
RML	2.19	0.55	\$379.61	\$86.68		\$94.31	\$560.60
RLX	2.26	0.28	\$391.75	\$44.13		\$94.31	\$530.19
RUC	1.56	1.87	\$270.41	\$294.71		\$94.31	\$659.43
RUB	1.56	1.87	\$270.41	\$294.71		\$94.31	\$659.43
RUA	0.99	1.87	\$171.61	\$294.71		\$94.31	\$560.63
RVC	1.51	1.28	\$261.74	\$201.73		\$94.31	\$557.78
RVB	1.11	1.28	\$192.41	\$201.73		\$94.31	\$488.45
RVA	1.10	1.28	\$190.67	\$201.73		\$94.31	\$486.71
RHC	1.45	0.85	\$251.34	\$133.96		\$94.31	\$479.61
RHB	1.19	0.85	\$206.27	\$133.96		\$94.31	\$434.54
RHA	0.91	0.85	\$157.74	\$133.96		\$94.31	\$386.01
RMC	1.36	0.55	\$235.74	\$86.68		\$94.31	\$416.73
RMB	1.22	0.55	\$211.47	\$86.68		\$94.31	\$392.46
RMA	0.84	0.55	\$145.61	\$86.68		\$94.31	\$326.60
RLB	1.50	0.28	\$260.01	\$44.13		\$94.31	\$398.45
RLA	0.71	0.28	\$123.07	\$44.13		\$94.31	\$261.51

RUG-IV	Nursing Index	Therapy Index	Nursing Component	Therapy Component	Non-case Mix Therapy Comp	Non-case Mix Component	Total Rate
ES3	3.58		\$620.56		\$19.23	\$94.31	\$734.10
ES2	2.67		\$462.82		\$19.23	\$94.31	\$576.36
ES1	2.32		\$402.15		\$19.23	\$94.31	\$515.69
HE2	2.22		\$384.81		\$19.23	\$94.31	\$498.35
HE1	1.74		\$301.61		\$19.23	\$94.31	\$415.15
HD2	2.04		\$353.61		\$19.23	\$94.31	\$467.15
HD1	1.60		\$277.34		\$19.23	\$94.31	\$390.88
HC2	1.89		\$327.61		\$19.23	\$94.31	\$441.15
HC1	1.48		\$256.54		\$19.23	\$94.31	\$370.08
HB2	1.86		\$322.41		\$19.23	\$94.31	\$435.95
HB1	1.46		\$253.08		\$19.23	\$94.31	\$366.62
LE2	1.96		\$339.75		\$19.23	\$94.31	\$453.29
LE1	1.54		\$266.94		\$19.23	\$94.31	\$380.48
LD2	1.86		\$322.41		\$19.23	\$94.31	\$435.95
LD1	1.46		\$253.08		\$19.23	\$94.31	\$366.62
LC2	1.56		\$270.41		\$19.23	\$94.31	\$383.95
LC1	1.22		\$211.47		\$19.23	\$94.31	\$325.01
LB2	1.45		\$251.34		\$19.23	\$94.31	\$364.88
LB1	1.14		\$197.61		\$19.23	\$94.31	\$311.15
CE2	1.68		\$291.21		\$19.23	\$94.31	\$404.75
CE1	1.50		\$260.01		\$19.23	\$94.31	\$373.55
CD2	1.56		\$270.41		\$19.23	\$94.31	\$383.95
CD1	1.38		\$239.21		\$19.23	\$94.31	\$352.75
CC2	1.29		\$223.61		\$19.23	\$94.31	\$337.15
CC1	1.15		\$199.34		\$19.23	\$94.31	\$312.88
CB2	1.15		\$199.34		\$19.23	\$94.31	\$312.88
CB1	1.02		\$176.81		\$19.23	\$94.31	\$290.35
CA2	0.88		\$152.54		\$19.23	\$94.31	\$266.08
CA1	0.78		\$135.21		\$19.23	\$94.31	\$248.75
BB2	0.97		\$168.14		\$19.23	\$94.31	\$281.68
BB1	0.90		\$156.01		\$19.23	\$94.31	\$269.55
BA2	0.70		\$121.34		\$19.23	\$94.31	\$234.88
BA1	0.64		\$110.94		\$19.23	\$94.31	\$224.48
PE2	1.50		\$260.01		\$19.23	\$94.31	\$373.55
PE1	1.40		\$242.68		\$19.23	\$94.31	\$356.22
PD2	1.38		\$239.21		\$19.23	\$94.31	\$352.75
PD1	1.28		\$221.88		\$19.23	\$94.31	\$335.42
PC2	1.10		\$190.67		\$19.23	\$94.31	\$304.21
PC1	1.02		\$176.81		\$19.23	\$94.31	\$290.35
PB2	0.84		\$145.61		\$19.23	\$94.31	\$259.15
PB1	0.78		\$135.21		\$19.23	\$94.31	\$248.75
PA2	0.59		\$102.27		\$19.23	\$94.31	\$215.81
PA1	0.54		\$93.60		\$19.23	\$94.31	\$207.14

5. On page 39222, in Table 27, column 2, line 29, the reference “MDS Item M0300X1” is

corrected to read “MDS Item M0300D1.”

6. On page 39285, TABLE 45--Impact to the SNF PPS for FY 2019 is corrected to read as follows:

TABLE 45: Impact to the SNF PPS for FY 2019

	Number of Facilities FY 2019	Update Wage Data	Total Change
Group			
Total	15,471	0.0%	2.4%
Urban	11,042	0.0%	2.4%
Rural	4,429	0.1%	2.5%
Hospital-based urban	498	0.0%	2.4%
Freestanding urban	10,544	0.0%	2.4%
Hospital-based rural	555	0.0%	2.4%
Freestanding rural	3,874	0.2%	2.6%
Urban by region			
New England	790	-0.7%	1.7%
Middle Atlantic	1,481	0.0%	2.4%
South Atlantic	1,869	-0.1%	2.3%
East North Central	2,127	-0.4%	2.0%
East South Central	555	-0.2%	2.2%
West North Central	920	-0.4%	2.0%
West South Central	1,346	0.3%	2.7%
Mountain	527	-0.8%	1.6%
Pacific	1,421	1.0%	3.4%
Outlying	6	-0.5%	1.9%
Rural by region			
New England	134	-0.7%	1.6%
Middle Atlantic	215	0.1%	2.5%
South Atlantic	494	0.1%	2.5%
East North Central	931	0.1%	2.5%
East South Central	523	-0.3%	2.1%
West North Central	1,074	0.3%	2.7%
West South Central	734	1.0%	3.5%
Mountain	229	0.2%	2.6%
Pacific	95	-0.5%	1.9%
Ownership			
Profit	10,887	0.0%	2.4%
Non-Profit	3,570	-0.1%	2.3%
Government	1,014	0.0%	2.4%

Note: The Total column includes the 2.4 percent market basket increase required by section 53111 of the BBA 2018. Additionally, we found no SNFs in rural outlying areas.

7. On page 39287, bottom of the page, column 2, line 6 and 7 the phrase “urban rural West South Central region” is corrected to read “rural West South Central region.”

CMS-1696-CN

Dated: September 27, 2018.

Ann C. Agnew,

Executive Secretary to the Department,

Department of Health and Human Services.

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