



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 424, 483, and 484

[CMS-1803-CN]

RIN 0938-AV28

Medicare Program; Calendar Year (CY) 2025 Home Health Prospective Payment System (HH PPS) Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin (IVIG) Items and Services Rate Update; and Other Medicare Policies; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the final rule that appeared in the November 7, 2024, **Federal Register** titled “Medicare Program; Calendar Year (CY) 2025 Home Health Prospective Payment System (HH PPS) Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin (IVIG) Items and Services Rate Update; and Other Medicare Policies”.

DATES: This correction is effective January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Brian Slater, (410) 786–5229, for home health and home IVIG payment inquiries.

For questions about the Home Health Quality Reporting Program (HH QRP), send your inquiry via email to HHQRPquestions@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2024-25441 of November 7, 2024 (89 FR 88354), there were technical and typographical errors that are identified and corrected in the Correction of Errors section of this correcting document. Accordingly, the corrections are effective January 1, 2025.

II. Summary of Errors

On page 88375, in the table titled “Table 7: Final OASIS Points Table for CY 2025”, we made a typographical error in a column heading.

On page 88376, in the table titled “Table 8: Final Thresholds for Functional Levels by Clinical Group, For CY 2025”, we made a typographical error in a column heading.

On page 88378, in the table titled “Table 9: Low Comorbidity Adjustment Subgroups for CY 2025”, we made typographical and technical errors in two low comorbidity subgroups/descriptions and the table note.

On pages 88431 and 88432, in our discussion of the Home Health Quality Reporting Program (HHQRP) quality measures, we made typographical errors in calendar year for which the measures are adopted.

III. Waiver of Proposed Rulemaking and Delay in 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 rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rulemaking 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 final rule correction 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 preamble of the CY 2025 HH PPS 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 final rule correction is intended to ensure that the information in the CY 2025 HH PPS final rule accurately reflects the policies adopted in that document.

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 information regarding the relevant Medicare payment policy in as timely a manner as possible, and to ensure that the CY 2025 HH PPS final rule accurately reflects our policies. Furthermore, such procedures would be unnecessary, as we are not altering 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 final rule correction is intended solely to ensure that the CY 2025 HH PPS final rule accurately reflects these payment methodologies and policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements. Moreover, even if these corrections were considered to be retroactive rulemaking, they would be authorized under section 1871(e)(1)(A)(ii) of the Act,

which permits the Secretary to issue a rule for the Medicare program with retroactive effect if the failure to do so would be contrary to the public interest. As we have explained previously, we believe it would be contrary to the public interest not to implement the corrections in this final rule correction for changes effective on November 1, 2024, because it is in the public’s interest for providers to receive information regarding the relevant Medicare payment policy in as timely a manner as possible, and to ensure that the CY 2025 HH PPS final rule accurately reflects our policies.

Corrections

In FR Doc. 2024-25441 of November 7, 2024 (89 FR 88354), we make the following corrections:

1. On page 88375, in the table titled “Table 7: Final OASIS Points Table for CY 2025”, header row, third column, the column heading “Points (2023)” is corrected to read “Points (2025)”.
2. On page 88376, in the table titled “Table 8: Final Thresholds for Functional Levels by Clinical Group, For CY 2025”, header row, last column, the column heading “Points (2023)” is corrected to read “Points (2025)”.
3. On page 88378, in the table titled “Table 9: Low Comorbidity Adjustment Subgroups for CY 2025” is corrected as follows:

TABLE 9: LOW COMORBIDITY ADJUSTMENT SUBGROUPS FOR CY 2025

- a. After the third row (entry for Circulatory 2) adding the following entry:

Low Comorbidity Subgroup	Description
Circulatory 7	Atherosclerosis, includes Peripheral Vascular Disease, Aortic Aneurysms and Hypotension

- b. Removing the 14th row (entry for Neoplasms 2).
- c. Following the table, the note “**Source:** CY 2023 Home Health Claims Data, Periods that end in CY 2022 accessed on the CCW July 11, 2024.” is corrected to read “**Source:** CY 2023 Home Health Claims Data, Periods that end in CY 2023 accessed on the CCW July 11, 2024.”.

4. On page 88431, third column
 - a. First full paragraph, lines 6 and 7, the phrase “In 2022, CMS tested” is corrected to read “In 2023, CMS tested”.
 - b. Fifth full paragraph, line 2, the section heading “*C. Quality Measures Currently Adopted for the CY 2024 HH QRP*” is corrected to read “*C. Quality Measures Currently Adopted for the CY 2025 HH QRP*”
 - c. Last paragraph, line 2, the year “CY 2024” is corrected to read “CY 2025”.
5. On page 88432, in the table titled “Table 26: Measures Currently Adopted for the CY 2024 HH QRP” the table heading is corrected to read “Table 26: Measures Currently Adopted for the CY 2025 HH QRP”.

Elizabeth J. Gramling,

Executive Secretary,

Department of Health and Human Services.