



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 600

Office of the Secretary

45 CFR Parts 150, 155, and 156

[CMS-9883-CN2]

RIN 0938-AV62

Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment

Parameters for 2027; and Basic Health Program; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors in the final rule that appeared in the May 20, 2026, **Federal Register** titled “Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program.”

DATES: This correction is effective July 20, 2026.

FOR FURTHER INFORMATION CONTACT: Jeff Wu, (301) 492-4305, Rogelyn McLean, (410) 786-1524, Grace Bristol, (410) 786-8437, for general information.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2026-10050 of May 20, 2026 (91 FR 29526) (2027 Payment Notice), there were typographical errors, technical drafting errors, and omissions that are identified and corrected in this document.

II. Summary of Errors

A. Summary of Error in the Preamble

On page 29800, we are correcting an error in our discussion of the effective date of the rule by replacing the phrase “effective 30 days after publication” in third column, last paragraph, line 8, with “effective 60 days after publication”.

B. Summary of Errors in the Regulations Text

On page 29864, we inadvertently provided erroneous amendatory instructions relating to 45 CFR 155.170 that had the unintended effect of omitting regulation text that is currently set forth at § 155.170(a)(3). We did not propose to rescind § 155.170(a)(3) in the proposed rule and did not intend to finalize its rescission in the final rule. Therefore, we correct regulation text at § 155.170(a) to reinstate the text in the currently effective version of § 155.170(a)(3), by renumbering and including it as new paragraph (a)(4).

On page 29874, in amendatory instruction 24 for § 156.130(a)(2), we stated we were finalizing revisions to paragraph (a)(2), without indicating that we were specifically finalizing revisions to the introductory text to paragraph (a)(2). We correct amendatory instruction 24, line 2, by replacing the phrase “revising paragraph (a)(2)” with “revising paragraph (a)(2) introductory text.”

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule in accordance with 5 U.S.C. 553(b) of the Administrative Procedure Act (APA). Each notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed and the terms and substance of the proposed rule, or a description of the subjects and issues involved. Per APA section 553(b)(B), these procedures can be waived if an agency finds good cause that notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the rule issued. Section 553(d)(3) of the APA allows an agency to avoid the 30-day delay in effective date when the agency finds good cause, and includes in the rule a statement of the finding and the reasons for it.

This document does not constitute a proposed rule subject to the notice-and-comment or delayed effective date requirements under sections 553(b) and (d) of the APA, because this correcting document merely corrects typographical and technical drafting errors and omissions in the final rule,. Regardless, even if this correcting document was deemed to be a proposed rule to which the notice-and-comment procedures and delayed effective date requirements applied, there is good cause to waive the requirements as following the notice-and-comment procedures and delayed effective date requirements under section 553(b) and (d) of the APA would be unnecessary and contrary to the public interest.

The corrections this document makes to the preamble of the final rule corrects a typographical error (91 FR 29800). In the final rule, we stated that these regulations are effective on July 20, 2026 (91 FR 29526). However, later in the final rule, we made an erroneous, more general, statement that the rule takes effect 30 days after publication in the **Federal Register** (which would be on June 19, 2026) (91 FR 29800). Because this document simply removes that later language from the final rule that provides an incorrect effective date, and because the final rule also contains the correct effective date, which interested parties were given notice and the opportunity to comment on, additional notice and comment on this change is unnecessary.

Moreover, the final rule is a major rule that generally must have a 60-day delayed effective date in compliance with the Congressional Review Act, 5 U.S.C. 801-808. Therefore, notice-and-comment procedures would be unnecessary because comments provided by interested parties cannot change this statutory 60-day delayed effective date requirement.¹

Similarly, notice and comment and a delayed effective date would be unnecessary to make the correction to amendatory instruction 24 for § 156.130(a)(2), which erroneously stated we were revising the text of paragraph (a)(2), rather than the introductory text of paragraph (a)(2) (91 FR 29874). This correction has no effect on the content or meaning of the regulation text.

¹ See, for example, *EME Homer City Generation, L.P. v. E.P.A.*, 795 F.3d 118, 134-135 (D.C. Cir. 2015) (finding that notice and comment was unnecessary because “commentators could not have said anything during a notice and comment period that would have changed [the] fact” that the agency must impose a 60-day delayed effective date.)

Additionally, if the correction were proposed and subjected to notice and comment, there would be nothing of substance on which the public could comment.

Following notice-and-comment procedures and the delayed effective date rule to correct the amendatory instructions for the regulatory text at § 155.170 also is unnecessary because this document simply corrects the inadvertent omission of an amendatory instruction to renumber paragraph (a)(3) of the currently effective version of § 155.170(a)(3) as paragraph (a)(4).

Furthermore, delaying the correction to § 155.170, to reinstate the text in the currently effective version of § 155.170(a)(3), to complete notice-and-comment procedures is contrary to the public interest because it would have the effect of allowing regulatory text that was not adopted in compliance with the APA to “remain on the books,” while a new rule is proposed and finalized. Without this correction, the final rule effectively rescinds the requirements under the currently effective version of paragraph (a)(3), without that rescission being proposed or otherwise subjected to notice-and-comment rulemaking procedures under section 553(b) of the APA. Thus, this correction will make the regulatory text consistent with the preamble discussions in the proposed and final rules, resulting in a regulation that reflects the policy subjected to notice-and-comment procedures and adopted in the final rule in compliance with the APA. Correcting the errors in the final rule without undue delay will also mitigate any confusion and uncertainty stemming from these errors. Declining to make these corrections now would be contrary to the public’s interest in receiving fair and timely notice of the regulatory requirements to which they may be subject.

The corrections made through this correcting document resolve inadvertent technical drafting errors so that the final rule accurately reflects the policies adopted therein pursuant to the APA’s notice-and-comment rulemaking requirements. Therefore, even if the corrections in this document were deemed to be subject to the notice-and-comment and effective date requirements under section 553 of the APA, there would be good cause to waive the requirements.

IV. Correction of Errors

In FR Doc. 2026-10050 of May 20, 2026 (91 FR 29526), make the following corrections:

A. Correction of Error in the Preamble

1. On page 29800, third column, last paragraph, line 8, the phrase “effective 30 days after publication” is corrected to read “effective 60 days after publication”.

B. Correction of Errors in the Regulation Text

1. On page 29864, third column, lines 1 and 2, amendatory instruction 9 for § 155.170, and lines 3 through 42, and the accompanying regulation text, are corrected to read as follows:

“9. Section 155.170 is amended by—

- a. Revising paragraphs (a)(1) and (2);
- b. Redesignating paragraph (a)(3) as paragraph (a)(4); and
- c. Adding a new paragraph (a)(3).

The revisions and addition read as follows:

§ 155.170 Additional required benefits.

(a) * * *

(1) A State may require a QHP to offer benefits in addition to the essential health benefits. For plan years beginning before January 1, 2028, a benefit required by State action taking place on or before December 31, 2011, a benefit required by State action for purposes of compliance with Federal requirements, or a benefit covered in the State's EHB-benchmark plan is considered an EHB. A benefit required by State action taking place on or after January 1, 2012, other than for purposes of compliance with Federal requirements, that is not a benefit covered in the State's EHB-benchmark plan is considered in addition to the essential health benefits.

(2) For plan years beginning on or after January 1, 2028, a State may require a QHP to cover benefits in addition to the essential health benefits, which are any State-required benefits that are:

- (i) Required by a State action taking place after December 31, 2011;
- (ii) Applicable to the small group and/or individual markets;
- (iii) Specific to required care, treatment, or services; and
- (iv) Not required by State action for purposes of compliance with Federal requirements.

(3) A State must make payments in accordance with paragraph (b) of this section to defray the cost of any State-required benefits in addition to the EHB.

* * * * *

§ 156.130 [Corrected]

2. On page 29874, first column, last paragraph, amendatory instruction 24 for § 156.130, line 2, the phrase “revising paragraph (a)(2)” is corrected to read “revising paragraph (a)(2) introductory text.”

Liesl I. Fowler,

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

[FR Doc. 2026-14709 Filed: 7/17/2026 4:15 pm; Publication Date: 7/21/2026]