

WASHINGTON

perspectives

***An Analysis and Commentary on Federal Health Care Issues
by Larry Goldberg***

June 12, 2014

CMS Issues Notice Regarding Extension of the Payment Adjustment for Low-Volume Hospitals and the Medicare-Dependent Hospitals (MDH) Program for Fiscal Year 2014



The Centers for Medicare and Medicaid Services (CMS) have issued a notice regarding the additional extension of the payment adjustment for Low-Volume Hospitals and the Medicare-Dependent Hospital (MDH) Program for Fiscal Year (FY) 2014. The notice is currently on display at the **Federal Register** office. Publication is scheduled for June 17. A copy is available at: http://www.ofr.gov/OFRUpload/OFRData/2014-14070_PI.pdf.

This document addresses payment for these programs only for the second half of FY 2014 (April 1, 2014 through September 30, 2014). CMS proposed to implement the statutory changes for the first half of FY 2015 (October 1, 2014 through March 31, 2015) in the FY 2015 IPPS/LTCH PPS proposed rule that appeared in the May 15, 2014 **Federal Register**.

Implementation of the Extension of the Temporary Changes to the Low-Volume Hospital Payment Adjustment for FY 2014 Discharges Occurring on or after April 1, 2014 through September 30, 2014

To implement the extension of the temporary change in the low-volume hospital payment policy for the last 6 months of FY 2014 CMS is using the same data source to identify qualifying low-volume hospitals and calculate the payment adjustment (percentage increase) that was used to identify qualifying low-volume hospitals and calculate the payment adjustment for discharges that occurred during the first half of FY 2014 (that is, FY 2012 Medicare discharge data from the March 2013 update of the MedPAR files), as these data were the most recent data available at the time of the development of the FY 2014 payment rates and factors established in the FY 2014 IPPS/LTCH PPS final rule.

In Table 14 (which is available only through the Internet on the CMS Web site at: www.cms.hhs.gov/AcuteInpatientPPS/01_overview.asp), CMS is providing the list of the subsection (d) hospitals with fewer than 1,600 Medicare discharges based on the March 2013 update of the FY 2012 MedPAR files and their FY 2014 low-volume payment adjustment, if eligible (Table 14 was originally made available in connection with the FY 2014 IPPS IFC that appeared in the March 18, 2014 **Federal Register**).

A hospital that qualified for the low-volume hospital payment adjustment for its FY 2014 discharges occurring on or after October 1, 2013 through March 31, 2014 does not need to notify its MAC and will continue to receive the applicable low-volume hospital payment adjustment for its FY 2014 discharges occurring on or after April 1, 2014, without reapplying, provided it continues to meet the mileage criterion (that is, the hospital continues to be located more than 15 road miles from any other subsection (d) hospital).

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Extension of the Medicare-Dependent, Small Rural Hospital (MDH) Program

This notice addresses the portion of the MDH program extension that includes the last 6 months of FY 2014.

a. MDHs that Classified as Sole Community Hospitals (SCHs) on or after April 1, 2014

In order to be classified as an MDH, a MDH hospitals that sought and was reclassified, as a SCH must first cancel their SCH status, because a hospital cannot be both an SCH and an MDH, and then reapply and be approved for MDH status under § 412.108(b). The Medicare contractor will make a determination regarding whether a hospital meets the criteria for MDH status and notify the hospital within 90 days from the date that it receives the hospital's request and all of the required documentation.

b. MDHs that Requested a Cancellation of Their Rural Classification Under § 412.103(b)

In order to qualify for MDH status, hospitals must be classified as rural under § 412.103(b). To the extent any urban hospitals sought reclassification to a rural location, and canceled same anticipating the end of the MDH program, these hospitals must reapply for MDH status under § 412.108(b), which includes seeking reclassification as a rural hospital.

If a provider reclassified to SCH status or cancelled its rural status effective April 1, 2014, its MDH status will not be retroactive to April 1, 2014, but will instead be applied prospectively, based on the date the hospital is notified that it again meets the requirements for MDH status, in accordance with § 412.108(b)(4), after the hospital reapplies for MDH status.

However, if a provider reclassified to SCH status or cancelled its rural status effective on a date later than April 1, 2014, MDH status will be reinstated effective from April 1, 2014, but will end on the date on which the provider changed its status to an SCH or cancelled its rural status. Those hospitals may also reapply for MDH status to be effective again 30 days from the date the hospital is notified of the determination, in accordance with § 412.108(b)(4).

The following are examples of various scenarios that illustrate how and when MDH status will be determined for hospitals that were MDHs as of the anticipated March 31, 2014 expiration of the MDH program:

Example 1: Hospital A was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. Hospital A retained its rural classification and did not reclassify as an SCH. Hospital A's MDH status will be automatically reinstated retroactively to April 1, 2014.

Example 2: Hospital B was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. Per the regulations at § 412.92(b)(2)(v) and in anticipation of the expiration of the MDH program, Hospital B applied for reclassification as an SCH by March 1, 2014, and was approved for SCH status effective on April 1, 2014. Hospital B's MDH status will not be automatically reinstated. In order to reclassify as an MDH, Hospital B must first cancel its SCH status, in accordance with § 412.92(b)(4), and reapply for MDH status under the regulations at § 412.108(b).

Example 3: Hospital C was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. Hospital C missed the application deadline of March 1, 2014 for reclassification as an SCH under the regulations at § 412.92(b)(2)(v) and was not eligible for its SCH status to be effective as of April 1, 2014. The MAC approved Hospital C's request for SCH status effective May 16, 2014. Hospital C's MDH status will be reinstated but only for the portion of time during which it met the criteria for MDH status. Hospital C's MDH status will be reinstated effective April 1, 2014 through May 15, 2014, and its MDH status will be cancelled effective May 16, 2014. In order to reclassify as an MDH, Hospital C must cancel its SCH status, in accordance § 412.92(b)(4), and reapply for MDH status under the regulations at § 412.108(b).

Example 4: Hospital D was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. In anticipation of the expiration of the MDH program, Hospital D requested that its rural classification be cancelled per the regulations at § 412.103(g). Hospital D's rural classification was cancelled effective April 1, 2014. Hospital D's MDH status will not be automatically reinstated. In order to reclassify as an MDH, Hospital D must first request to be reclassified as rural under § 412.103(b) and must reapply for MDH status under § 412.108(b).

Example 5: Hospital E was classified as an MDH as of the anticipated March 31, 2014 expiration of the MDH program. In anticipation of the expiration of the MDH program, Hospital E requested that its rural classification be cancelled per the regulations at § 412.103(g). Hospital E's rural classification is cancelled effective June 1, 2014. Hospital E's MDH status will be reinstated but only for the period of time during which it met the criteria for MDH status. Since Hospital E cancelled its rural status and is classified as urban effective June 1, 2014, MDH status will only be reinstated effective April 1, 2014 through May 31, 2014, and will be cancelled effective June 1, 2014. In order to reclassify as an MDH, Hospital E must first request to be reclassified as rural under § 412.103(b) and must reapply for MDH status under § 412.108(b).

Comment

While both CMS and these providers expected their respective program exceptions to end March 31, 2014, neither group expected Congress to provide an additional year to the program lives. Further, while CMS provided good intentions with respect to alternatives to the MDH program's expected termination, the mechanism CMS is using for the last 6 months of FY 2014 appears overly cumbersome and burdensome. It would appear much easier to allow any MDH hospital as of March 31, 2014 to simply cancel changes it may have made in anticipation of the program's termination and to have its MDH status reinstated.

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