

beneficiary would be required to assume responsibility for payment; that is, upon exhausting benefits described in 42 CFR part 409, subpart F. The discussion in the August 30, 2002 final rule was not meant to establish rates or payments for, or define, Medicare-eligible expenses. While CMS regulates beneficiary liability for coinsurance and deductibles for hospital stays that are covered by Medicare, payments from Medigap insurers to providers for inpatient hospital coverage after Medicare benefits are exhausted are not regulated by CMS. Furthermore, regulations beginning at § 403.200 and the 1991 National Association of Insurance Commissioners (NAIC) Model Regulation for Medicare Supplemental Insurance, which was incorporated by reference into section 1882 of the Act, govern the relationship between Medigap insurers and beneficiaries.

E. System Implementation for the LTCH PPS

When we established the regulations to implement the LTCH PPS on August 30, 2002 (67 FR 55954), effective for cost reporting periods that began on or after October 1, 2002, we did not have a computer system changes in place that were necessary to accommodate claims processing and payment under the system. However, after January 1, 2003, we made the necessary system changes. Accordingly, after January 1, 2003, the fiscal intermediary will reconcile the payment amounts that had been made to LTCHs for all covered inpatient hospital services furnished to Medicare beneficiaries from cost reporting periods that began on or after October 1, 2002, through January 1, 2003, with the amounts that were payable under the LTCH PPS methodology. Because the LTCH PPS was effective at the start of the LTCH's first cost reporting period that began on or after October 1, 2002, only those LTCHs with cost reporting periods that started October 1, 2002, through January 1, 2003, will experience the payment reconciliation necessitated by this 3-month period prior to systems implementation. The claims submission procedure of using ICD-9-CM codes has not changed following the systems implementation of the LTCH PPS.

We also want to note that as of October 16, 2002, a LTCH that was required to comply with the Administrative Simplification Standards under the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191) and that had not obtained an extension in compliance with the Administrative Compliance Act (Pub. L. 107-105) is obligated to comply with the standards

for submitting claim forms to the LTCH's Medicare fiscal intermediary (45 CFR 162.1002 and 45 CFR 162.1102). Beginning October 16, 2003, LTCHs that obtained an extension and that are required to comply with the HIPAA Administrative Simplification Standards must start submitting electronic claims in compliance with the HIPAA regulations cited above, among others.

II. Summary of the Major Contents of This Proposed Rule

In this proposed rule, we are setting forth the proposed annual update to the payment rates for the Medicare LTCH PPS and proposing other policy changes. The following is a summary of the major areas that we are addressing in this proposed rule:

A. Proposed Change in the Annual Update

We are proposing to change the annual update to the Federal payment rate under the LTCH PPS from the Federal fiscal year (October 1 through September 30) to a "LTCH rate year" of July 1 through June 30, beginning July 1, 2003, as discussed in section III. of this preamble. (In this proposed rule, we would define the LTCH rate year as the period of July 1 to June 30 for updates to the LTCH PPS.) We are proposing to publish information on the annual update in the **Federal Register** by June 1 of each year. We recognize that it may be necessary to address issues affecting LTCHs at a time that does not conform to this schedule and in those circumstances, we could utilize the IPPS proposed and final rule for this purpose.

B. Proposed Update Changes

- In section IV. of this preamble, we are proposing that the annual update of the LTC-DRG classifications and relative weights would remain linked to the annual adjustments of the acute care hospital inpatient DRG system, which are based on the annual revisions to the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) codes, effective each October 1.

- In section V. of this preamble, we discuss a proposed policy change in how Medicare payment under the LTCH PPS would be made to certain LTCHs that have satellite facilities.

- In sections VI. through X. of this preamble, we discuss our proposed determination of the LTCH PPS rates that would be applicable to the proposed LTCH rate year of July 1, 2003 through June 30, 2004, including proposed revisions to the wage index,

the proposed excluded hospital with capital market basket that would be applied to the current standard Federal rate to determine the prospective payment rates, the applicable adjustments to payments, the proposed outlier threshold, the transition period, and the proposed budget neutrality factor.

- We are also proposing to revise § 412.525(a) and § 412.529(c)(4) regarding adjustments to outlier payments under the LTCH PPS in order to conform the regulation to a proposed policy change under the IPPS that is published in the **Federal Register** on March 4, 2003.

- In section XI. of this preamble, we discuss our continuing monitoring efforts to evaluate the LTCH PPS.

- In section XIII. of this preamble, we set forth an analysis of the impact of the proposed changes in this proposed rule on Medicare expenditures and on Medicare-participating LTCHs and Medicare beneficiaries.

III. Proposed Changes in the Annual Update of the LTCH PPS

In existing regulations at § 412.535 that were issued in the August 30, 2002 final rule, we specify a schedule for publishing information on the LTCH PPS on or before August 1, which coincided with the statutorily mandated publication schedule for the IPPS. We are proposing to revise § 412.535 to provide generally for a change in the annual rate update for the LTCH PPS, starting on July 1.

Section 1886(e)(5)(A) of the Act requires that, for the IPPS, the proposed rule be published in the **Federal Register** "not later than the April 1 before each fiscal year; and the final rule, not later than the August 1 before such fiscal year." The statute imposes no such publication schedule for the LTCH PPS. In the August 30, 2002 final rule (67 FR 55977), we stated that we were considering changing the publication schedule of the LTCH PPS annual rulemaking cycle in order to avoid concurrent publication of annual rules for these two systems for purposes of administrative feasibility and efficiency. In considering a change in the publication schedule of the LTCH PPS final rule, we contemplated a change in the effective date for updating the Federal rates for the LTCH PPS. Therefore, in this proposed rule, we are proposing to change the effective date of the annual update for the LTCH PPS from October 1 to July 1 of each year in order to facilitate a timely publication of these two significant payment updates (acute care hospital inpatient and LTCH). Thus, the annual update of the