

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 412, 413, and 485

[CMS-1203-CN]

RIN 0938-AL23

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2003 Rates; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 1, 2002 entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2003 Rates," including three technical errors in the wage index values. Except for the three wage index corrections, these technical corrections are effective retrospectively to October 1, 2002. The corrections to the wage index values are effective prospectively for discharges occurring on or after April 28, 2003.

EFFECTIVE DATES: All corrections except those listed in items 12(b) and 13 of section III of this notice are effective as of October 1, 2002. The corrections listed in items 12(b) and 13 of section III of this document are effective on April 28, 2003.

FOR FURTHER INFORMATION CONTACT: Margot Blige Holloway, (410) 786-4642.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 02-19292 of August 1, 2002 (67 FR 49982), there were a number of technical errors that are identified and corrected in the Correction of Errors section below. With the exception of three provisions related to correction of wage index values, the provisions in this correction notice are effective as if they had been included in the document published on August 1, 2002. Accordingly, these corrections are effective on October 1, 2002. The three corrected wage index values are effective prospectively with discharges occurring on or after April 28, 2003. The errors in these wage index values resulted from the inadvertent use of incorrect geographic reclassification designations or wage data or both in calculating these values.

II. Summary of the Corrections to the August 1, 2002 Final Rule

This correction notice makes a number of changes to the August 1, 2002 final rule. Because of the number of corrections and length of some of these corrections, we are summarizing the corrections in sections II.A. and II.B. of the notice. Sections II.A. and II.B. of the notice describe the corrections that are effective October 1, 2002 and April 28, 2003, respectively. Section III of this notice specifies the details of each correction to the August 1, 2002 final rule.

A. Corrections Effective October 1, 2002

In section II.B.2.b of the final rule, we described the revisions to diagnostic related groups (DRGs) 14 and 15. Beginning on page 49988 of the final rule, we presented the public comments and our responses to the proposed changes to these DRGs. However, we inadvertently omitted two comments regarding the proposed changes to DRGs 14 and 15. We apologize for this omission, as we fully intend to monitor these DRGs and the cases assigned to them. In addition, we discovered, and are correcting, typographical errors on pages 49994 and 50005.

On page 50014 of the final rule, we discussed the new technology application for Xigris™. In our discussion of our decision to approve the application to receive new technology add-on payments, we mistakenly listed the following criteria for use as "FDA-listed indications and contraindications":

- Active internal bleeding;
- Recent (within 3 months) hemorrhagic stroke;
- Recent (within 2 months) intracranial or intraspinal surgery or severe head trauma;
- Trauma with an increase risk of life-threatening bleeding;
- Presence of an epidural catheter;
- Intracranial neoplasm or mass lesion or evidence of cerebral herniation.

We are correcting this error in section III of this notice and make note that the items in the list above are the FDA-labeled contraindications to the use of this drug. The FDA approval of Xigris™ also specified that its use is "indicated for the reduction of mortality in adult patients with severe sepsis (sepsis associated with acute organ dysfunction) who have a high risk of death." In the study supporting the FDA approval of this drug risk of death was determined by the patient's Acute Physiology and Chronic Health Evaluation (APACHE II) score, which is

commonly used in intensive care units to make this judgment. Patients with APACHE II scores of less than 25 were at a lower risk of death and had no advantage in mortality from the use of Xigris™.

On page 50053 of the final rule, we discussed the amendment to the definition of "like hospital," which is used for purposes of determining sole community hospital (SCH) status. The amended definition of "like hospital" excludes any hospital that provides 8 percent or less of the services furnished by the SCH. We also adopted inpatient days as the unit of measurement, as a proxy for measuring services. In the preamble discussion, there were references both to using Medicare inpatient days and total inpatient days as a proxy for measuring service overlap. It is total inpatient days, not Medicare inpatient days, that will be used as a proxy to measure service overlap. Accordingly, we are correcting the references regarding inpatient days and patient days that appeared on pages 50054 through 50056 of the final rule. However, we note that the revision to the regulations at § 412.92(c)(2) correctly reflects total inpatient days as the proxy for measuring service overlap.

On page 50126 we are correcting a typographical error in the budget neutrality factor. Therefore, the figure "0.994027" will be corrected to read "0.993209".

On September 30, 2002, we published a program memorandum, Transmittal A-02-092, to correct certain wage index values and hospital geographical classifications that we published incorrectly in the August 1, 2001 and August 1, 2002 final rules. The corrections were made to errors by CMS and the fiscal intermediaries in handling the data used to calculate certain average hourly wages, wage indexes, and capital geographic adjustment factors (GAFs) published in tables 2, 3A, 4A, and 9. (The corrections are to items referenced on pages 50155, 50199, 50212, and 50217).

On pages 50223 through 50229 of the August 1, 2002 final rule, we published tables 4G and 4H. There are errors in the wage indexes listed in these tables as a result of the use of an incorrect data file. These changes are not retroactive decisions, but simply constitute corrections resulting from the mishandling of data. In section III of this notice, we will republish tables 4G and 4H to correct the errors made in the wage index values listed in those tables.

On pages 50230 through 50239, we published table 5. This table contained several typographical errors (on pages 50236 and 50238, respectively) that we