

determined by when the IRF-PAI discharge assessment is completed.

After the discharge assessment has been completed, § 412.610(d) "Encoding dates" specifies that the data must be entered into the electronic version of the IRF-PAI, a process which § 412.602 defines as encoding the data. As specified in § 412.610(d) the IRF has 7 calendar days to encode the discharge assessment. In order for the IRF-PAI

data not to be considered as having been transmitted late, § 412.614(d)(2) specifies that the IRF-PAI data must be transmitted to us no later than 10 calendar days from the date specified in § 412.614(c). The date specified in § 412.614(c) is the 7th calendar day of the applicable encoding time period specified in § 412.610(d). The 7th calendar day of the applicable encoding date specified in § 412.610(d) is the end

of the discharge assessment encoding time period because none of the data can be transmitted until the discharge assessment has been encoded. The following example, which is very similar to the Chart 3 on page 41332 of the August 7, 2001 final rule (66 FR 41316), is intended to clarify when CMS will determine that the IRF-PAI data was transmitted late.

CHART 2.— EXAMPLE OF APPLYING THE PATIENT ASSESSMENT INSTRUMENT DISCHARGE ASSESSMENT AND TRANSMISSION DATES

Assessment Type	Discharge date	Assessment reference date	IRF-PAI completed by	IRF-PAI encoded by	IRF-PAI data transmitted by	Date when IRF-PAI data transmission is late
Discharge Assessment	10/16/03	10/16/03	10/20/03	10/26/03	11/01/03	11/12/03 *

* Or any day after 11/12/03.

If IRF-PAI data are transmitted later than 10 calendar days from the transmission date specified in § 412.614(c), § 412.614(d)(2) specifies that we will assess a penalty by deducting 25 percent from the CMG payment that is associated with the IRF-PAI data that were transmitted late. However, we believe that an IRF may encounter an extraordinary situation, which is beyond its control, and that extraordinary situation could render the IRF unable to comply with § 412.614(c). The IRF must fully describe in the appropriate inpatient's clinical record, or by use of another documentation method as selected by the IRF, the extraordinary situation which the IRF encountered that resulted in the IRF being unable to comply with § 412.614(c). Although an IRF may believe that the facility has encountered an extraordinary situation, the IRF's belief does not mean that CMS is obligated to also automatically determine that the situation was of an extraordinary nature. CMS has the discretion to determine whether the situation described by the IRF is extraordinary.

The extraordinary situation may be, but does not have to be, due to the occurrence of an unusual event. Examples of unusual events include, but are not limited to, fire, flood, earthquake, or other similar incidents that inflict extensive damage to an IRF. Another example of an extraordinary situation is the inability of an IRF to transmit any IRF-PAI data for an extended time period, because during that entire time period there was a problem with the data transmission system that was beyond the control of

the IRF. An example of a data transmission system problem that is beyond the control of the IRF is the inability of an IRF to transmit its IRF-PAI data because the computer used by CMS to receive and process the data is malfunctioning. A further example of a data transmission system problem that is beyond the control of the IRF is the existence of a flaw in the software that was distributed by CMS to IRFs, or a flaw in the software specifications made available by CMS to vendors that prevent the IRF from transmitting its IRF-PAI data. In addition, an extraordinary situation may include a situation in which a facility has correctly followed CMS policies and procedures in order to be classified as an IRF and obtain an IRF provider number, but has experienced a delay in attaining an IRF provider number. In light of these possibilities, we are proposing a new § 412.614(e) to read as follows: "Exemption to being assessed a penalty for transmitting the IRF-PAI data late." CMS may waive the penalty specified in paragraph (d) of this section when, due to an extraordinary situation that is beyond the control of an inpatient rehabilitation facility, the inpatient rehabilitation facility is unable to transmit the patient assessment data in accordance with paragraph (c) of this section. Only CMS can determine if a situation encountered by an inpatient rehabilitation facility is extraordinary and qualifies as a situation for waiver of the penalty specified in paragraph (d)(2) of this section. An extraordinary situation may be due to, but is not limited to, fires, floods, earthquakes, or similar unusual events that inflict extensive damage to an inpatient

rehabilitation facility. An extraordinary situation may be one that produces a data transmission problem that is beyond the control of the inpatient rehabilitation facility, as well as other situations determined by CMS to be beyond the control of the inpatient rehabilitation facility. An extraordinary situation must be fully documented by the inpatient rehabilitation facility."

G. General Information Regarding the IRF-PAI Assessment Process

We have received many questions regarding the IRF-PAI assessment process policies. We have posted the answers to most of these questions on the IRF PPS website.

1. The IRF PPS Website Address

The current internet address for the IRF PPS website is <http://www.cms.hhs.gov/providers/irfpps/>. Due to changes in CMS internet policies during 2002, the current website address is different from the one we published in the August 7, 2001 final rule.

2. Exceptions to the IRF-PAI Admission and Discharge Assessment Time Period General Rules

Section 412.610(c)(1)(i) states the general rule that the time span covered during the admission assessment is calendar days 1 through 3 of the patient's current Medicare Part A fee-for-service IRF hospitalization. Section 412.610(c)(2)(i) states the general rule that the discharge assessment time period is a span of time that covers 3 calendar days, which includes the inpatient's discharge date, which is the same date as the discharge assessment reference date, and the 2 calendar days