

facility if its estimated costs for a patient exceeds a fixed dollar amount (adjusted for area wage levels and factors to account for treating low-income patients and for rural locations) as specified by CMS. The additional payment equals 80 percent of the difference between the estimated cost of the patient and the sum of the adjusted Federal prospective payment computed under this section and the adjusted fixed dollar amount. Additional payments made under this section will be subject to the adjustments at § 412.84(i) and at § 412.84(m), except that national averages will be used instead of statewide averages. Additional payments made under this section will also be subject to adjustments at § 412.84(m).

* * * * *

Dated: March 18, 2003.

Thomas A Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: May 6, 2003.

Tommy G. Thompson,

Secretary.

Note: The following appendices will not appear in the Code of Federal Regulations:

Appendix A—Methodology to Determine Compliance with the 75 Percent Rule

Section 412.23(b)(2) specifies that during the most recent cost reporting period 75 percent of an IRF's inpatient population must have had a medical condition that can be matched to one of

ten medical conditions specified in this section. This requirement is commonly termed the "75 percent rule."

CMS used the IRF-PAI database to estimate the percentage of IRFs that submitted IRF-PAI data during the first eight months of calendar year 2002 that met the 75 percent rule. Under the existing IRF PPS regulations, an IRF must send CMS an IRF-PAI data record that contains data about each Medicare Part A fee-for-service inpatient admitted to the IRF. The IRF-PAI is submitted by the IRF after the inpatient has been discharged.

Section II of the preamble contains Chart 1 "Estimates of Compliance with the 75 Percent Rule." Chart 1 illustrates the estimated percentage of IRFs whose Medicare inpatient populations had medical conditions considered to be consistent with one or more of the medical conditions in § 412.23(b)(2). In addition, Chart 1 also shows the estimated percentage of IRFs that met lower thresholds.

For example, in the "65% rule" column of Chart 1 shows the percentage of IRFs that submitted IRF-PAI data during the first eight months of calendar year 2002 that had 65 percent of their Medicare inpatient population included in at least one of the ten medical conditions specified in § 412.23(b)(2).

An IRF-PAI data record was counted as meeting one of the ten medical conditions specified in § 412.23(b)(2) if its impairment group code given in IRF-PAI item 21 is listed in one of the codes listed in Table 4 "Acceptable

Impairment Group Codes" below, or if any of its diagnoses (IRF-PAI items 22 and 24a through 24j) are listed in Table 5 "Acceptable ICD-9-CM Codes" below. (This list may not be all inclusive, but represents a conservative list of diagnoses more likely to be consistent with the ten diagnoses.)

Table 4 illustrates that the pairing of some impairment group codes with specific etiologic diagnosis ICD-9-CM codes within the same IRF-PAI data record resulted in that data record not being counted as meeting one of the ten medical conditions specified in § 412.23(b)(2). For example, if an IRF-PAI data record specified both the impairment group code 02.1 (non-traumatic brain injury) and the etiologic diagnosis ICD-9-CM code 215.0 (other benign neoplasms of connective and other soft tissue of head and neck) then that admission was not counted as meeting one of the medical conditions specified in § 412.23(b)(2). However, regardless of the impairment group code specified in an IRF-PAI data record the data record for the admission was counted as meeting one of the ten medical conditions specified in § 412.23(b)(2) if IRF-PAI items 22 and 24a through 24j contained an ICD-9-CM code as specified in Table 5 "Acceptable ICD-9-CM Codes" below. The data analyzed represents 8 months of IRF-PAI data records.

Appendix B—Inpatient Rehabilitation Facility Patient Privacy Forms

BILLING CODE 4120-01-P