

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 HIPPA Administrative Simplification Standards must start submitting electronic claims in compliance with the HIPPA regulations cited above, among others.

II. Publication of Proposed Rulemaking

On March 7, 2003, we published a proposed rule in the **Federal Register** (67 FR 11234) that set forth the proposed annual update of the payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). In that rule, we proposed to change the annual period during which the updated payment rates for the LTCH PPS would be effective from October 1 through September 30 to a LTCH PPS rate year from July 1 through June 30. We also proposed to change the publication schedule for these updates to allow for an effective date of July 1. The proposed payment amounts and factors used to determine the proposed updated Federal rates that were described in the March 7, 2003, proposed rule were determined based on the proposed revised update LTCH PPS rate year. However, the annual update of the long-term care diagnosis-related groups (LTC-DRG) classifications and relative weights remain linked to the annual adjustments of the acute care hospital inpatient diagnosis-related group system, effective each October 1. In the March 7, 2003, proposed rule, we also proposed the outlier threshold for July 1, 2003, through June 30, 2004, that was derived from the proposed LTCH PPS rate year calculations. We also proposed a change for outlier payments under the LTCH PPS. In addition, we proposed a policy change eliminating bed-number restrictions for pre-1997 LTCHs that have established satellite facilities and that elect to be paid 100 percent of the Federal rate or when the LTCH is fully phased-in to 100 percent of the Federal prospective rate after the transition period.

We received a total of 32 timely items of correspondence containing multiple comments on the proposed rule. The major issues addressed by the commenters included: The establishment of the LTCH PPS rate year and its relation to the update of the Federal rates; the LTC-DRGs and the wage index; satellite policy and budget neutrality calculations; high-cost and short-stay outliers; market basket and labor share; disproportionate share

(DSH) and Graduate Medical Education (GME) policies.

Summaries of the public comments received and our responses to those comments are described below under the appropriate subject heading.

III. Summary of the Major Contents of This Final Rule

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

A. Change in the Annual Update

We are changing 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 PPS rate year" of July 1 through June 30, beginning July 1, 2003, as discussed in section IV. of this preamble. (In this final rule, we define the LTCH PPS rate year as the period from July 1 to June 30 for updates to the LTCH PPS.) As noted below, we will now publish information on the annual update in the **Federal Register** on or before May 1 prior to the start of each long-term care hospital prospective payment system rate year that begins July 1, unless for good cause it is published after May 1, but before June 1. We have already noted that the annual update of the LTC-DRGs will be published in the proposed and final rules for the IPPS. We also recognize that it may be necessary to address issues affecting LTCHs at a time that does not conform to the schedule above. In such a situation, we would use another **Federal Register** document (that is, the acute care hospital inpatient prospective payment system (IPPS) proposed rule or final rule) as the vehicle to present that issue.

B. Update Changes

- In section IV. of this preamble, the annual update of the LTC-DRG classifications and relative weights 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 VI. of this preamble, we discuss a policy change on how Medicare payment under the LTCH PPS will be made to certain LTCHs that have satellite facilities.

- In sections VII. through XI. of this preamble, we discuss our determination of the LTCH PPS rates that are applicable to the LTCH PPS rate year of

July 1, 2003, through June 30, 2004, including revisions to the wage index, the excluded hospital with capital market basket that will be applied to the current standard Federal rate to determine the prospective payment rates, the applicable adjustments to payments, the outlier threshold, the short-stay outlier policy for certain LTCHs, the transition period, and the budget neutrality factor.

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

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

IV. 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. In the March 7, 2003, proposed rule, we proposed 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, 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 (67 FR 55977). 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 the March 7, 2003, proposed rule, we proposed changing 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 (IPPS and LTCH PPS). Thus, the annual update of the LTCH PPS Federal rates would no longer be linked to the start of the Federal fiscal year, as is the update of the IPPS. We had proposed that this change would necessitate publication of the final rule for the