

8. Medicare+Choice (M+C) Days

We are still reviewing the large number of comments we received on the proposed provision relating to the counting of Medicare+Choice days for purposes of the IME and DSH adjustments. Due to the number and nature of the comments we received on our proposed policies, we are addressing the public comments in a separate document. We refer individuals interested in reviewing the background information and the discussion regarding these policies to the May 19, 2003 proposed rule (68 FR 27208).

D. Medicare Geographic Classification Review Board (MGCRB) Reclassification Process (§ 412.230)

With the creation of the MGCRB, beginning in FY 1991, under section 1886(d)(10) of the Act, hospitals could request reclassification from one geographic location to another for the purpose of using the other area's standardized amount for inpatient operating costs or the wage index value, or both (September 6, 1990 interim final rule with comment period (55 FR 36754), June 4, 1991 final rule with comment period (56 FR 25458), and June 4, 1992 proposed rule (57 FR 23631)). Implementing regulations in Subpart L of Part 412 (§§ 412.230 *et seq.*) set forth criteria and conditions for redesignations for purposes of the wage index or the average standardized amount, or both, from rural to urban, rural to rural, or from an urban area to another urban area, with special rules for SCHs and rural referral centers.

Effective with reclassifications for FY 2003, section 1886(d)(10)(D)(vi)(II) of the Act provides that the MGCRB must use the average of the 3 years of hourly wage data from the most recently published data for the hospital when evaluating a hospital's request for reclassification. The regulations at § 412.230(e)(2)(ii) stipulate that the wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes. To evaluate applications for wage index reclassifications for FY 2004, the MGCRB used the 3-year average hourly wages published in Table 2 of the August 1, 2002 IPPS final rule (67 FR 50135). These average hourly wages are taken from data used to calculate the wage indexes for FY 2001, FY 2002, and FY 2003, based on cost reporting periods beginning during FY 1997, FY 1998, and FY 1999, respectively.

Last year, we received a comment suggesting that we allow for the correction of inaccurate data from prior

years as part of a hospital's bid for geographic reclassification (67 FR 50027). The commenter suggested that not to allow corrections to the data results in inequities in the calculation in the average hourly wage for purposes of reclassification. In the August 1, 2002 IPPS final rule, we responded:

"Hospitals have ample opportunity to verify the accuracy of the wage data used to calculate their wage index and to request revisions, but must do so within the prescribed timelines. We consistently instruct hospitals that they are responsible for reviewing their data and availing themselves to the opportunity to correct their wage data within the prescribed timeframes. Once the data are finalized and the wage indexes published in the final rule, they may not be revised, except through the mid-year correction process set forth in the regulations at § 412.63(x)(2). Accordingly, it has been our consistent policy that if a hospital does not request corrections within the prescribed timeframes for the development of the wage index, the hospital may not later seek to revise its data in an attempt to qualify for MGCRB reclassification."

"Allowing hospitals the opportunity to revise their data beyond the timelines required to finalize the data used to calculate the wage index each year would lessen the importance of complying with those deadlines. The likely result would be that the data used to compute the wage index would not be as carefully scrutinized because hospitals would know they may change it later, leading to inaccuracy in the data and less stability in the wage indexes from year to year."

Since responding to this comment in the FY 2003 IPPS final rule, we have become aware of a situation in which a hospital does not meet the criteria to reclassify because its wage data were erroneous in prior years, and these data are now being used to evaluate its reclassification application. In addition, in this situation, the hospital's wage index was subject to the rural floor because the hospital was located in an urban area with an actual wage index below the statewide rural wage index for the State, and it was for a time period preceding the requirement for using 3 years of data. Therefore, the hospital contends, it had no incentive to ensure its wage data were completely accurate. (However, we would point out that hospitals are required to certify that their cost reports submitted to CMS are complete and accurate. Furthermore, inaccurate or incomplete reporting may have other payment implications beyond the wage index.)

We now more fully understand this particular hospital's situation and we have the administrative authority to establish a policy allowing corrections for this particular set of circumstances, in the proposed rule, we solicited comments on whether it may be appropriate to establish a policy whereby, for the limited purpose of qualifying for reclassification based on data from years preceding the establishment of the 3-year requirement (that is, cost reporting years beginning before FY 2000), a hospital in an urban area that was subject to the rural floor for the period during which the wage data the hospital wishes to revise were used to calculate the wage index, a hospital may request that its wage data be revised.

Comment: One commenter supported the proposed establishment of the exception. However, the commenter recommended that CMS consider allowing all hospitals to make corrections to the data that is used in reclassification determinations.

Response: We continue to believe that requiring wage data corrections by specified deadlines is essential to ensuring that wage data is finalized in an efficient manner. We also continue to believe that final wage data published in the annual IPPS final rules should be as complete and accurate as possible. However, we believe that, in the limited circumstances raised in our proposed rule where the hospital could not have foreseen that its wage data would later be used in a 3-year average, and the hospital was subject to the rural floor, it is feasible to permit a limited exception. Therefore, in this final rule, we are amending § 412.230(e)(2)(ii)(A) to allow, for the limited purpose of qualifying for geographic reclassification, hospitals demonstrating that they meet the limited circumstances described in the amended regulation be considered for reclassification after taking into account revisions subsequent to its use to construct the wage index for IPPS payment purposes. We are not adopting a broader exception, because we continue to believe it is important to ensure that final wage data published in the annual IPPS final rule are complete and accurate. Creating a broad exception to allow for corrections of prior years' data would affect the accuracy and stability in the wage indices from year to year. Therefore, we will continue to require hospitals—other than hospitals meeting the limited exception described in § 412.230(e)(2)(ii)(A)—to ensure that their wage data are correct by applicable deadlines and will not allow for wage data corrections after such deadlines.