

statute. Under section 1861(v) of the Act, Congress provides for Medicare payments to be made in support of certain medical education activities. Currently, if a program meets the regulatory requirements under § 413.85, which were specified earlier in this preamble, a hospital operating that program may qualify for Medicare reasonable cost pass-through payment.

*Comment:* One commenter explained that a dietetic internship is a post-baccalaureate program that is one of the requirements for practicing as a registered dietitian. The commenter pointed out that the Commission on Accreditation of Dietetic Education (CADE) of the American Dietetic Association accredits these internships and the interns contribute directly to patient care in a hospital. The commenter urged us to continue to pay health care organizations for dietetic internships.

*Response:* We appreciate the comment and note that, as long as a dietetic internship meets the requirements under § 413.85 (and we do not find that it is not the industry norm to require this training to be employed as a registered dietitian), the hospital operating the internship may qualify for Medicare reasonable cost pass-through payment.

*Comment:* A large number of commenters responded to our proposal to clarify that, effective October 1, 2003, training that does not lead to certification required to practice or begin employment in a nursing or allied health specialty would be treated as educational activities (continuing education) that are part of normal operating costs, and not as approved programs that are eligible for reasonable cost pass-through payments. Many commenters strongly disagreed with our proposal that included pharmacy residencies in the type of training that is considered continuing education and claimed that the proposed rule reflected a fundamental misunderstanding of pharmacy education. The commenters stated that educational seminars, workshops, and continuing education programs are generally performed outside the provider setting, and in most instances do not exceed 40 hours per year, whereas a pharmacy residency is a full-time commitment that lasts for 1 year. The commenters emphasized that the pharmacy residencies are structured, intensive programs that incorporate direct patient care experience where residents work as part of a clinical team and are required to complete a comprehensive project. The commenters contended that residency experience provides focused, invaluable training

that yields proven positive clinical and financial outcomes. The commenters also noted that, while residencies are not a requirement for all hospital pharmacy positions, they are a requirement for most clinical specialist positions. The commenters maintained that residencies would be a more universal hiring requirement were it not for the current shortage of pharmacists and residency programs. The commenters stressed the benefits of clinical pharmacist involvement in patient care and cautioned that CMS' attempt at short-term cost savings will result in significant long-term cost of care increases. The commenters urged CMS to ensure continuing reasonable cost pass-through payments for pharmacy residencies.

*Response:* As we stated above in response to the comments received from the clinical pastoral counseling community, in the May 19, 2003 proposed rule (68 FR 27210), we explained what constitutes "continuing education" for the purpose of determining whether a nursing or allied health education activity would or would not qualify for Medicare reasonable cost pass-through payments. We acknowledge that the definition of "continuing education" for Medicare payment purposes may differ from the academic view of what, in general, constitutes such activities. As we stated earlier, we believe that provider-operated programs that do not lead to any specific certification, or the ability to perform in the specialty, would be classified as "continuing education."

Our intent is to ensure that Medicare reasonable cost pass-through payments are only provided for programs that enable an individual to be employed in a capacity that he or she could not have been employed without having first completed a particular education program. We believe that, *for Medicare purposes*, training that enhances an individual's competencies, but does not permit that individual to be employed in a new specialty in which he or she could not have been employed without completing the additional training, would not qualify for Medicare reasonable cost pass-through payment. Medicare provides payment for such educational activities, but only under the methodology applicable to payments for normal operating costs. Our intent was to provide clarification for the purpose of distinguishing between those educational programs that qualify for reasonable cost pass-through payment (that is, programs that enable an individual to begin employment in a specialty), and those programs that should be paid as normal operating

costs (that is, activities that are intended to enhance the current skill set of an individual for a profession or advance an individual's professional career).

Since publication of the proposed rule, we have learned from information provided by the commenters that there are two categories of pharmacy residencies—pharmacy practice residencies and specialized pharmacy residencies, both of which are accredited by the American Society of Health-System Pharmacists (ASHP). If a pharmacist chooses to participate in residency training, he or she would generally do so after completion of an undergraduate bachelor of science degree or a doctor of pharmacy degree. (In some cases, residencies are offered as a part of a postgraduate degree (a master of science or a doctor of pharmacy). However, these programs would *not* meet our provider-operated criteria.) A pharmacy practice residency is typically a 1-year, organized, directed, postgraduate training program in a defined area of pharmacy practice that may take place in a variety of settings, including hospitals. For those seeking additional skills in a focused area of pharmacy practice (for example, oncology), an individual may choose to complete a second year of specialized pharmacy residency. Currently, ASHP, in partnerships with other professional organizations, accredits 17 second-year pharmacy residencies, in areas such as cardiology, geriatrics, infectious diseases, and oncology.

Of the 17 second-year pharmacy residencies, only 5 of these residencies currently lead to board certification. The Board of Pharmaceutical Specialties (BPS) is the organization that administers the certifying examinations after completion of each of these five residencies. Upon completion of a residency in 1 of the other 12 second-year residencies, the hospital in which the resident has trained issues a certificate to the pharmacist.

We understand that many employers, including hospitals, increasingly are requiring completion of an ASHP-accredited first year pharmacy practice residency as a condition for employment as a clinical ("on the floor") or direct patient care pharmacist. While a licensed pharmacist who has not completed a pharmacy practice residency might be hired by a hospital as a staff or distribution pharmacist, a hospital typically would only hire an individual who has completed at least a 1-year pharmacy practice residency to fill a position that requires direct work with hospital patients. Some hospitals may even require their pharmacists to have completed a second-year