

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 413

[CMS-1470-CN]

RIN 0938-AL89

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 1, 2003 entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates." These corrections include—(1) An error in the assignment of procedures to diagnosis-related group (DRG) 525, Heart Assist System Implant; (2) a technical error in the new technology add-on payment amount for InFUSE™ Bone Graft/LT-CAGE™ Lumbar Tapered Fusion Device (InFUSE™); and (3) technical errors in the wage index values and geographic reclassifications. As a result of the wage index and geographic reclassification corrections, we have recalculated the budget neutrality factors applicable to the operating national average standardized amounts and the capital Federal rate, which resulted in changes to the standardized amounts themselves.

EFFECTIVE DATES: The corrections listed in this document are effective on October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Margot Blige Holloway, (410) 786-4642.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 03-19363 of August 1, 2003 (68 FR 45346), there was a factual error and a number of technical errors that are identified and corrected in the Correction of Errors section (section II) of this document. There are also typographical errors that are identified and corrected in section II of this document.

We are correcting the assignment of procedures to DRG 525 in light of the much lower charges associated with code 37.62. We are also correcting a factual error in our response to a comment we received stating that the

DRG assignment of International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) procedure codes to DRG 525 is clinically and financially inappropriate. Our response stated that this point had not been raised prior to this year's proposed rule. However, our response was incorrect. In fact, a commenter did point out in response to our proposal to create DRG 525 for FY 2003 that ICD-9-CM procedure code 37.62 was clinically and financially dissimilar to other procedures in DRG 525, and recommended this procedure code not be included in DRG 525 but should remain in DRGs 104 and 105, Cardiac Valve and Other Major Cardiothoracic Procedures With and Without Cardiac Catheterization. (See the August 1, 2002 **Federal Register** (68 FR 49991) for the detailed discussion of the comment and our response.)

We will remove all cases with code 37.62 from DRG 525, and reassign them to DRGs 104 and 105, respectively. Procedure codes 37.63 (Replacement and repair of heart assist system), 37.65 (Implant of an external, pulsatile heart assist system), and 37.66 (Implant of an implantable, pulsatile heart assist system) will continue to be assigned to DRG 525. This change will increase the relative weight and the payments for cases assigned to DRG 525. We now believe this correction is necessary to ensure adequate access to procedures in this DRG. As a result of these corrections, we are also making corrections to the relative weights and the geometric and arithmetic mean length of stay listed in Table 5 of the final rule. Although this change will be effective for discharges occurring on or after October 1, 2003, it requires the issuance of revised GROUPER software. At this time, we do not anticipate revised GROUPER software will be available until at least January 1, 2004. Affected claims may be resubmitted for adjusted payments after that date.

One of the technical errors involved our discussion of the approval of InFUSE™ Bone Graft/LT-CAGE™ Lumbar Tapered Fusion Device (InFUSE™) as a new technology eligible add-on payment. In that discussion, we mistakenly indicated that a single level fusion required the use of two InFUSE products, with a total cost of \$17,800. Based on further review of the costs associated with this technology, we have determined that only one InFUSE product is required for a single level fusion. Accordingly, we are correcting the maximum add-on payment for a case involving the InFUSE™ to be \$4,450. In addition, we have recomputed the budget neutrality

adjustment factor under section 1886(d)(4)(C)(iii) to reflect the lower estimate of the total add-on payments for this new technology.

The technical errors also included several errors in the calculation of the wage index. These errors were due to the mishandling or miscalculation of data by CMS and the fiscal intermediaries. Therefore, we are making corrections to some of the average hourly wages shown in Table 2 for individual hospitals and to the corresponding average hourly wages shown in Table 3A of the Metropolitan Statistical Areas (MSA) where those hospitals are located. At least one of the computational errors also has a spill-over effect on hospitals other than the hospitals that were the subjects of the error. This error involved a few hospitals whose wage indexes were calculated as if their cost reporting periods equaled 1 month (even though the hospitals had reported a full 12 months of data). As we explained in the August 1, 2003 final rule, we annualize short cost-reporting periods to reflect a 1-year period (68 FR 45399). Annualization is accomplished by dividing the data by the number of days in the cost report and then multiplying the results by 365, and such annualization resulted in a wage index for the subject hospitals inflated by a factor of approximately 12. Correcting the error results in a decrease to the national average hourly wage rate and a concurrent general increase in the wage indexes. Consequently, we are republishing Tables 4A through 4H, reflecting corrections to hospitals' wage indexes.

After the publication of the August 1, 2003 final rule, we were notified of a wage index data error for rural Georgia. These errors appear in the average hourly wages listed in Table 2 and in the Table 3B (Wage Index and Capital Geographic Adjustment Factor (GAF) for Rural Areas). The errors in the average hourly wage were a result of the use of an incorrect data file. In this notice, we are correcting the average hourly wage listed in Tables 2 and 3B. However, because we did not receive notification regarding the error in enough time to make corrections to the rural Georgia wage index effective for discharges on or after October 1, 2003, we are not correcting the corresponding wage index values (which are listed in Tables 4B and 4H) in this document. These corrections will be issued in a future program memorandum and made effective prospectively with discharges occurring on or after January 1, 2004.

Also, there were technical errors in the geographic reclassifications that will