

this notice creates new duties and obligations which cannot be directly drawn from the statute, the effective date shall be November 21, 2003.

Final Provisions

The Department is finalizing the following provisions: (1) Methodology for withholding DME and IME payments and determining reconciliation payments as stipulated in the CHGME PP statute; (2) updating of the wage index used in calculating IME payments; (3) dissemination of CHGME PP data; and (4) audit.

In its September 25, 2002 **Federal Register** notice, the Department proposed for public comment its methodology for the withholding and reconciliation of CHGME PP payments as stipulated by statute. The Department proposed to withhold up to 25% of both DME and IME payments to ensure that hospitals did not receive overpayment. It also proposed a methodology to determine reconciliation payments using changes in FTE resident counts that occur during the Federal fiscal year (FFY) for which payments are being made.

In the same **Federal Register** notice, the Department also proposed that the most recently available wage index (WI) be used in the determination of IME payments. To date, the Department had been using the FY 1999 WI published by the Centers for Medicare and Medicaid Services (CMS) to determine IME since its use is statutorily mandated in the determination of DME.

The Department also proposed that each hospital could request its own information (*i.e.*, its application information and information used to determine payments) from the CHGME PP but would need to request all other information (*e.g.*, information for other hospitals or for all hospitals) through the HRSA Freedom of Information Act (FOIA).

Finally, the Department proposed that the OMB A-133 review requirements originally imposed on hospitals participating in the CHGME PP be replaced with an assessment conducted by an outside contractor familiar with Medicare policies of the FTE resident counts.

A description of the Department's final policies on these issues as well as the public comments and the Department's response is included in the following sections.

I. Withholding and Reconciliation Processes and Methodology for Calculating Reconciliation Payments

The Department is finalizing the methodology for withholding children's

hospitals DME and IME payments to reduce the likelihood that a hospital is overpaid on an interim basis, determining revised full time equivalent (FTE) resident counts, and calculating reconciliation payments described in the September 25, 2002 **Federal Register** notice. The CHGME PP began implementing this methodology beginning with the payments it awarded to children's hospitals issued in Federal Fiscal Year (FFY) 2002.

Withholding Process

The CHGME PP statute, as amended, states that "the Secretary shall withhold up to 25% from each interim (payment) installment for direct and indirect graduate medical education * * * as necessary to ensure a hospital will not be overpaid on an interim basis." The statute also indicates that, prior to the end of each FFY, the Secretary must determine any changes to the number of FTE residents reported by a hospital in its annual initial application for CHGME PP funding. This determination by the Secretary will be used to calculate the final amount payable to that hospital for the FFY. Funding withheld during the interim period will be allocated to children's hospitals following the determination by the Secretary of any changes to the number of FTE residents reported by participating hospitals. The Secretary has statutory authority to reconcile FTE resident counts only. It should be noted, however, that the Secretary does have the discretion to audit any and all variables used to determine CHGME PP payments to children's hospitals.

Reporting Revised Resident Counts

To assess the impact of payment resulting from the FTE assessment process, during the third quarter (March 1-June 30) of each FFY for which payments are being made, the CHGME PP will release a reconciliation application for use by participating hospitals to report changes in the FTE resident counts reported in their initial applications. The reconciliation application will include forms HRSA-99 (Hospital Demographics), HRSA-99-1 (Reconciliation of FTE resident counts), HRSA 99-2 (Determination of Indirect Medical Education Data), HRSA-99-3 (Certification), and HRSA-99-4 (Required Data Reporting for Government Performance and Results Act). This collection of information has been approved under OMB Information Collection No. 09 5-0247. Hospitals will have 30 days to complete and return the reconciliation application. If a hospital fails to complete and return the reconciliation application according to

the terms and conditions of the CHGME PP, the Department may suspend the award, pending corrective action, or may terminate the award for cause.

Hospitals that were not eligible to participate or did not apply for funding during the initial application cycle are not eligible to apply for and receive funding during the reconciliation process. These hospitals must wait until the next initial application cycle to apply.

Determining Changes in FTE Resident Counts

Hospitals will report revised FTE resident counts to the CHGME PP by submitting a complete reconciliation application. Any changes to resident FTE counts reported on the reconciliation application must be for the same Medicare cost report (MCR) period(s) identified in the hospital's initial application for the FFY. Hospitals whose resident counts have not changed are not exempt from completing and submitting a CHGME PP reconciliation application. For purposes of clarification, an FTE resident is measured in terms of time worked during a residency training year. It is not a measure of individual residents who are working.

Prior to FFY 2003, assessment of FTE resident counts was done by the Medicare fiscal intermediaries (FIs) for the subset of children's hospitals that filed full MCRs. The Secretary has established an assessment process that will ensure this determination is made for FTE resident counts submitted by all children's hospitals. Beginning in FFY 2003, the CHGME PP is contracting with FIs to assess the FTE resident counts submitted by participating hospitals in their FFY 2003 initial CHGME PP application. This assessment of FTE resident counts will be performed for all hospitals regardless of the type of MCR they file (*e.g.*, full, low or no utilization). This process is designed to assess FTE resident counts for all children's hospitals within the CHGME PP time constraints in an equitable fashion. The resident FTE counts reported by the hospitals in their reconciliation application must be consistent with those reported by the hospital's CHGME FI to be accepted by the Department. The Department will provide final review and determination of the hospitals' FTE counts. The reconciliation process requires that participating hospitals comply with requests from the CHGME PP FI. The CHGME PP has placed a guidance document providing further information about the FTE resident count assessment on the program's Web site