

of the reconciliation application process, the denominator of the payment calculation may change as a result of changes in FTE resident counts reported by other hospitals. More detailed information is available on the CHGME PP payment formulas in the June 19, 2000 **Federal Register** notice (DME payment formula) and the July 20, 2001 **Federal Register** notice (IME payment formula). Information on the payment formulas is also available on the CHGME PP Web site <http://bhpr.hrsa.gov/childrenshospitalgme/>.

As provided by statute, for disputes greater than \$10,000, a hospital may request a hearing on the Secretary's payment determination by the Provider Reimbursement Review Board under section 1878 of the Social Security Act (42 U.S.C. 1395oo), implemented by regulations at 42 CFR part 405, subpart R.

It should also be noted that the reconciliation process does not take the place of a separate audit process to which the hospitals may be subject. Participating children's hospitals are subject to audit (other than OMB Circular A-133 as described in section IV below) to determine whether the applicant hospital has complied with applicable laws, regulations, and its application for funding.

Comment: One respondent requested that the interest rate charged by the Government be published.

Response: Interest will be accrued at a rate set on a quarterly basis by the Secretary of the Treasury pursuant to 45 CFR 30.13.

II. Updating the Wage Index in Calculation of Indirect Medical Education Payment

The Department has determined that it will continue to use the wage index (WI) determined by the Centers for Medicare and Medicaid Services (CMS) for fiscal year (FY) 1999 to calculate the indirect medical education (IME) payment for children's hospitals. In its September 25, 2002 **Federal Register** notice, the CHGME PP proposed that the wage index (WI) from the most recent fiscal year available be used to calculate IME payments. Although the CHGME PP statute states that the factor applied under section 1886(d)(3)(E) of the Social Security Act (*i.e.*, the wage index calculated by the Centers for Medicare and Medicaid Services) for discharges occurring during fiscal year 1999 for the hospital's area be used in the calculation of direct medical education (DME) payments, the Secretary has discretion to choose the WI used in the calculation of IME payments. Since the statute specifies the use of the FY 1999

WI to determine DME, however, the use of the WI from the most recent fiscal year available to calculate IME payments would result in two different WI being used to determine the CHGME PP payments to children's hospitals. After consideration of the public comments on this topic, the Department has determined that it will continue to use the wage index (WI) determined by the Centers for Medicare and Medicaid Services (CMS) for fiscal year (FY) 1999 to calculate the indirect medical education (IME) payment for children's hospitals. In using the WI to determine CHGME PP payments for both DME and IME, the Secretary will use the most recently available Medicare PPS labor-related (and non-labor-related) share; currently, the PPS labor-related share is 71.1%.

Comment: Several respondents expressed concern regarding use of the updated CMS WI because of current Congressional efforts to make substantive changes in the determination of the CMS WI. As the outcome of these efforts (*i.e.*, if and when a bill is passed) and the resulting implications for recalculation of the WI by CMS are not clear, the respondents encouraged the CHGME PP to postpone implementation of this policy.

Response: Since its inception, determination of the WI has been subject to change both at the Congressional and Department level. Given this ongoing iterative process and the lack of statutory directive regarding the use of WI in the calculation of IME, the Department has determined that it will continue to use the WI from FY 1999 to calculate the IME payment.

Comment: One respondent was concerned about the potential confusion that could result from using two different WI values, one for DME and one for IME, to determine payments for the participating hospitals.

Response: The Department recognizes the potential confusion that using two different WI values could create among hospitals participating in the CHGME PP. In order to prevent such confusion, the WI from FY 1999 will continue to be used to calculate IME.

Comment: One respondent commented that it may be more appropriate to postpone the implementation of the proposed WI policy until it could be assessed in light of the findings of the ongoing analytic activities related to the CHGME PP IME payment formula.

Response: The Department agrees that it may be best to introduce any changes to the IME payment formula simultaneously and not in an incremental fashion. It should be noted,

however, that the payment formulas used by the program may be subject to statutory amendment.

III. Dissemination of CHGME PP Data

The Department considers all CHGME PP information obtained by the program in hospital applications and generated by the program to determine payments to be fully disclosable; that is, its release to the public poses no potential harm to the hospital(s) that originally submitted the Program application. The Department is finalizing the following procedure for the dissemination of information related to the CHGME PP.

Each hospital participating in the CHGME PP may request its own hospital-specific data related to the CHGME PP through a written request to the CHGME PP. Contact information is provided earlier in this notice.

All other requests for information (*e.g.*, information requested about another participating hospital or all participating hospitals) must be submitted to the Freedom of Information Act (FOIA) Officer for the Health Resources and Services Administration (HRSA). The HRSA FOIA Office address is 5600 Fishers Lane, Room 14-45, Rockville Maryland 20857.

In addition, the CHGME PP will follow the policies regarding fees and charges associated with release of information as stated in 45 CFR part 5, subpart D.

IV. Audit

In the March 1, 2001 **Federal Register** notice, the Department announced that awards under the CHGME PP must be audited under Office of Management and Budget (OMB) Circular A-133. The Department has reconsidered its position with respect to this requirement, and is making final the policy proposed in the September 25 **Federal Register** notice that CHGME PP awards are not subject to review/audit under OMB Circular A-133. This policy will be in effect beginning with the FFY 2003 CHGME PP application.

The relevant compliance requirements that the Department needs for the CHGME PP are the FTE resident counts reported on the initial and reconciliation applications for the Program. Since the Secretary must account for change in the number of FTE residents prior to the close of each FFY, the Department is required to assess FTE resident counts per the applications prior to the end of each FFY for all CHGME PP participating hospitals. The Department has established a process to assess the FTE resident counts submitted by children's