

system, we believe that the proposed payment system appropriately accommodates the higher costs of those psychiatric units with a more complex case-mix. The proposed DRG and comorbidity payment adjustments, the proposed 3-year transition period that would allow a gradual phase-in of the proposed IPF prospective payment system, and the proposed outlier payment policy would ensure that those psychiatric units with more costly, resource-intensive cases are not unfairly disadvantaged.

Although the use of a psychiatric unit adjustment in connection with the proposed IPF prospective payment system was described in our August 21, 2002 Report to the Congress as a potential payment option, as discussed in section III.B.2. of this proposed rule, we have not adopted this approach.

- Another option we considered was a facility model based on the IPF's historical payment and patient mix.

In order to address the limitation of routine cost data that is discussed in section III.B. of this proposed rule, we considered a model based on facility-level routine costs and patient-level ancillary costs separately. Under this model, the variables in the facility routine cost regression are defined differently than in the ancillary cost and proposed rule regressions. For example, in the ancillary cost regression, length of stay is each patient's length of stay, but in the routine cost regression it is the facility's average length of stay. Similarly, in the ancillary cost regression, the age variable indicates whether an individual patient is over 65 years of age, but in the routine cost regression it indicates the percentage of the facility's patients who are over 65 years of age. This difference in the routine and ancillary cost regressions also applies to the comorbidity and DRG variables. These differences in measurement mean that the coefficient values of these variables are not directly comparable between the facility-level routine cost regression and the patient-level regression for ancillary cost or total cost. In addition, operationalizing this model would present claims processing and systems issues to keep the facility-level data up to date. Therefore, we rejected this approach.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare,

Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT PSYCHIATRIC SERVICES

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart A—General Provisions

2. Section 412.1 is amended as follows:

- a. Redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(3) and (a)(4).
- b. Adding a new paragraph (a)(2).
- c. Redesignating paragraphs (b)(12) and (b)(13) as paragraphs (b)(13) and (b)(14).
- d. Adding a new paragraph (b)(12).

The additions read as follows:

§ 412.1 Scope of part.

(a) * * *

(2) This part implements section 124 of Public Law 106–113 by establishing a per diem prospective payment system for the inpatient operating and capital costs of hospital inpatient services furnished to Medicare beneficiaries by a psychiatric facility that meets the conditions of subpart N of this part.

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(b) * * *

(12) Subpart N describes the prospective payment system specified in paragraph (a)(2) of this section for inpatient psychiatric facilities and sets forth the general methodology for paying the operating and capital-related costs of hospital inpatient services furnished by inpatient psychiatric facilities effective with cost reporting periods beginning on or after April 1, 2004.

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Subpart B—Hospital Services Subject to and Excluded From the Prospective Payment Systems for Inpatient Operating Costs and Inpatient Capital Related Costs

3. Section 412.20 is amended as follows:

- a. Revising paragraph (a).
 - b. Redesignating paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e).
 - c. Adding a new paragraph (b).
- The revision and addition read as follows:

§ 412.20 Hospital services subject to the prospective payment systems.

(a) Except for services described in paragraphs (b), (c), (d), and (e) of this section, all covered hospital inpatient services furnished to beneficiaries during the subject cost reporting periods are paid under the prospective payment system as specified in § 412.1(a)(1).

(b) Effective for cost reporting periods beginning on or after April 1, 2004, covered hospital inpatient services furnished to Medicare beneficiaries by an inpatient psychiatric facility that meets the conditions of § 412.404 are paid under the prospective payment system described in subpart N of this part.

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4. Section 412.22 is amended by revising paragraph (b).

§ 412.22 Excluded hospitals and hospital units: General rules.

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(b) *Cost reimbursement.* Except for those hospitals specified in paragraph (c) of this section, and § 412.20(b), (c), and (d), all excluded hospitals (and excluded hospital units, as described in § 412.23 through § 412.29) are reimbursed under the cost reimbursement rules set forth in part 413 of this chapter, and are subject to the ceiling on the rate of hospital cost increases as specified in § 413.40 of this chapter.

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5. Section 412.23 is amended as follows:

- a. Republishing paragraph (a) introductory text.
 - b. Redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a)(2) and (a)(3).
 - c. Adding a new paragraph (a)(1).
- The republication and addition read as follows:

§ 412.23 Excluded hospitals: Classifications.

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(a) *Psychiatric hospitals.* A psychiatric hospital must—

(1) Meet the following requirements to be excluded from the prospective