

payment system as specified in § 412.1(a)(1) and to be paid under the prospective payment system as specified in § 412.1(a)(2) and in subpart N of this part;

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6. Section 412.25 is amended by revising the paragraph (a) introductory text to read as follows:

§ 412.25 Excluded hospital units: Common requirements.

(a) *Basis for exclusion.* In order to be excluded from the prospective payment systems as specified in § 412.1(a)(1) and to be paid under the inpatient prospective payment system as specified in 412.1(a)(2), a psychiatric unit must meet the following requirements.

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§ 412.27 [Amended]

7. Section 412.27 is amended as follows:

- a. Revising the introductory text.
- b. Amending paragraph (a) by removing the words "Third Edition", and adding in its place, "Fourth Edition, Text Revision".

The revision reads as follows:

§ 412.27 Excluded psychiatric units: Additional requirements.

In order to be excluded from the prospective payment system as specified in § 412.1(a)(1), and paid under the inpatient psychiatric prospective payment system as specified in § 412.1(a)(2), a psychiatric unit must meet the following requirements:

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8. Section 412.116 is amended as follows:

- a. Redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5).
- b. Adding a new paragraph (a)(3).

The addition reads as follows:

§ 412.116 Method of payment.

(a) * * *

(3) For cost reporting periods beginning on or after April 1, 2004, payments for hospital inpatient services furnished by a psychiatric hospital and psychiatric unit that meet the conditions of § 412.404 are made as described in § 412.432.

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9. A new subpart N is added to read as follows:

Subpart N—Prospective Payment System for Hospital Inpatient Services of Psychiatric Facilities.

Sec.

412.400 Basis and scope of subpart.

412.402 Definitions.

412.404 Conditions for payment under the prospective payment system for hospital

inpatient services of psychiatric facilities.

412.422 Basis of payment.

412.424 Methodology for calculating the Federal per diem payment rates.

412.426 Transition period.

412.428 Publication of the Federal per diem payment rates.

412.432 Method of payment under the inpatient psychiatric facility prospective payment system.

Subpart N—Prospective Payment System for Hospital Inpatient Services of Psychiatric Facilities.

§ 412.400 Basis and scope of subpart.

(a) *Basis.* This subpart implements section 124 of Public Law 106–113, which provides for the implementation of a per diem based prospective payment system for inpatient psychiatric hospitals and psychiatric units (inpatient psychiatric facilities).

(b) *Scope.* This subpart sets forth the framework for the prospective payment system for inpatient psychiatric facilities, including the methodology used for the development of the per diem rate and associated adjustments, the application of a transition period, and the related rules. Under this system, for cost reporting periods beginning on or after April 1, 2004, payment for the operating and capital-related costs of hospital inpatient services furnished by inpatient psychiatric facilities is made on the basis of prospectively determined rates and applied on a per diem basis.

§ 412.402 Definitions.

As used in this subpart—

Comorbidity means all specific patient conditions that are secondary to the patient's primary diagnosis and that coexists at the time of admission, develop subsequently, or that affect the treatment received or the length of stay or both. Diagnoses that relate to an earlier episode of care that have no bearing on the current hospital stay are excluded.

Fixed dollar loss threshold means a dollar amount by which the costs of a case exceed payment in order to qualify for an outlier payment.

Inpatient psychiatric facilities means hospitals that meet the requirements as specified in § 412.22, § 412.23(a) and units that meet the requirements as specified in § 412.22, § 412.25, and § 412.27.

Interrupted stay means a Medicare inpatient is discharged from the inpatient psychiatric facility and returns to the same inpatient psychiatric facility within 5 consecutive calendar days. The 5 consecutive calendar days begin with the day of discharge.

Outlier payment means an additional payment beyond the Federal

prospective payment amount for cases with unusually high costs.

Per diem payment amount means payment based on the average cost of 1 day of inpatient psychiatric services.

Principal diagnosis means the condition established after study to be chiefly responsible for occasioning the admission of the patient to the inpatient psychiatric facility.

Rural area means an area as defined in § 412.62(f)(1)(iii).

Urban area means an area as defined in § 412.62(f)(1)(ii).

§ 412.404 Conditions for payment under the prospective payment system for hospital inpatient services of psychiatric facilities.

(a) *General requirements.* (1) Effective for cost reporting periods beginning on or after April 1, 2004, an inpatient psychiatric facility must meet the conditions of this section to receive payment under the prospective payment system described in this subpart for hospital inpatient services furnished in psychiatric facilities to Medicare beneficiaries.

(2) If an inpatient psychiatric facility fails to comply fully with these conditions, CMS may, as appropriate—

(i) Withhold (in full or in part) or reduce Medicare payment to the inpatient psychiatric facility until the facility provides adequate assurances of compliance; or

(ii) Classify the inpatient psychiatric facility as a hospital that is subject to the conditions of subpart C of this part and is paid under the prospective payment system as specified in § 412.1(a)(1).

(b) *Inpatient psychiatric facilities subject to the prospective payment system.* Subject to the special payment provisions of § 412.22(c), an inpatient psychiatric facility must meet the general criteria set forth in § 412.22. For exclusion from the hospital inpatient prospective payment system as specified in § 412.1(a)(1), a psychiatric hospital must meet the criteria set forth in § 412.23(a) and psychiatric units must meet the criteria set forth in § 412.25 and § 412.27.

(c) *Limitations on charges to beneficiaries—*(1) *Prohibited charges.* Except as permitted in paragraph (c)(2) of this section, an inpatient psychiatric facility may not charge a beneficiary for any services for which payment is made by Medicare, even if the facility's cost of furnishing services to that beneficiary are greater than the amount the facility is paid under the prospective payment system.

(2) *Permitted charges.* An inpatient psychiatric facility receiving payment