

#### § 413.195

by the projected number of treatments for the exception request period.

#### § 413.195 Limitation on Review.

Administrative or judicial review under section 1869 of the Act, section 1878 of the Act, or otherwise of the following is prohibited: The determination of payment amounts under section 1881(b)(14)(A) of the Act, the establishment of an appropriate unit of payment under section 1881(b)(14)(C) of the Act, the identification of renal dialysis services included in the bundled payment, the adjustments under section 1881(b)(14)(D) of the Act, the application of the phase-in under section 1881(b)(14)(E) of the Act, and the establishment of the market basket percentage increase factors under section 1881(b)(14)(F) of the Act.

[75 FR 49199, Aug. 12, 2010]

#### § 413.196 Notification of changes in rate-setting methodologies and payment rates.

(a) CMS or the facility's intermediary notifies each facility of changes in its payment rate. This notice includes changes in individual facility payment rates resulting from corrections or revisions of particular geographic labor cost adjustment factors.

(b) Changes in payment rates resulting from incorporation of updated cost data or general revisions of geographic labor cost adjustment factors are announced by notice published in the FEDERAL REGISTER without opportunity for prior comment. Revisions of the rate-setting methodology are published in the FEDERAL REGISTER in accordance with the Department's established rulemaking procedures.

(c) Effective for items and services furnished on or after January 1, 2011 and before January 1, 2012, CMS adjusts the composite rate portion of the basic case-mix adjusted composite payment system described in § 413.220 by the ESRD bundled market basket percentage increase factor.

(d) Effective for items and services furnished on or after January 1, 2012, CMS updates on an annual basis the following:

(1) The per-treatment base rate and the composite rate portion of the basic

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case-mix adjusted composite payment system described in § 413.220 by the ESRD bundled market basket percentage increase factor minus a productivity adjustment factor.

(2) The wage index using the most current hospital wage data.

(3) The fixed dollar loss amount as defined in § 413.237 of this part to ensure that outlier payments continue to be 1.0 percent of total payments to ESRD facilities.

[62 FR 43668, Aug. 15, 1997, as amended at 75 FR 49199, Aug. 12, 2010]

#### § 413.198 Recordkeeping and cost reporting requirements for outpatient maintenance dialysis.

(a) *Purpose and Scope.* This section implements section 1881(b)(2)(B)(i) of the Act by specifying recordkeeping and cost reporting requirements for ESRD facilities under part 494 of this chapter. The records and reports will enable CMS to determine the costs incurred in furnishing outpatient maintenance dialysis as defined in § 413.170(a).

(b) *Recordkeeping and reporting requirements.* (1) Each facility must keep adequate records and submit the appropriate CMS-approved cost report in accordance with §§ 413.20 and 413.24, which provide rules on financial data and reports, and adequate cost data and cost finding, respectively.

(2) The cost reimbursement principles set forth in this part (beginning with § 413.134, Depreciation, and excluding the principles listed in paragraph (b)(4) of this section), apply in the determination and reporting of the allowable cost incurred in furnishing outpatient maintenance dialysis treatments to patients dialyzing in the facility, or incurred by the facility in furnishing home dialysis service, supplies, and equipment.

(3) Allowable cost is the reasonable cost related to dialysis treatments. Reasonable cost includes all necessary and proper expenses incurred by the facility in furnishing the dialysis treatments, such as administrative costs, maintenance costs, and premium payments for employee health and pension plans. It includes both direct and indirect costs and normal standby costs.