DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1406–CN2]

RIN 0938–AQ03

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2010 Rates and to the Long-Term Care Hospital Prospective Payment System and Rate Year 2010 Rates; Final Fiscal Year 2010 Wage Indices and Payment Rates Implementing the Affordable Care Act; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of notice.

SUMMARY: This document corrects technical errors in the notice entitled “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2010 Rates and to the Long-Term Care Hospital Prospective Payment System and Rate Year 2010 Rates: Final Fiscal Year 2010 Wage Indices and Payment Rates Implementing the Affordable Care Act; Corrections” which appeared in the June 2, 2010 Federal Register.

DATES: Effective Date: This document corrects technical errors that appeared in a notice that described revised standard Federal rates effective for payment years beginning October 1, 2009. Hospitals are paid based on the rates published in that notice, as corrected by this document, for discharges on or after April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Tzvi Hefter, (410) 786–4487.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2010–12563 of June 2, 2010 (that is, the fiscal year 2010 hospital inpatient prospective payment systems/rate year 2010 long-term care hospital prospective payment system (FY 2010 IPPS/RY 2010 LTCH PPS) notice), there were several technical and typographic errors that are identified and corrected in the Correction of Errors section below. This document corrects technical errors that appeared in the FY 2010 IPPS/RY 2010 LTCH PPS notice that described revised standard Federal rates effective for payment years beginning October 1, 2009. Hospitals are paid based on the rates published in that notice, as corrected by this document, for discharges on or after April 1, 2010.

II. Summary of Errors

In the Addendum to the notice, we made technical and typographical errors in the titles of the Tables 1A through 1E and 4J. In Tables 1A through 1E, we inadvertently indicated that the values listed in the tables were applicable to payments made for discharges on or before September 30, 2010 instead of the second half of the fiscal year which is April 1, 2010 through September 30, 2010. Although these rates are effective for all of FY 2010 and RY 2010 as applicable, hospitals were not paid on the basis of the rates until April 1, 2010. Therefore, in section III. 1. and 2. of this notice, we correct this error in the listing of tables on page 31147 as well as the table headings on page 31148. In Table 4J, we made errors in the table heading in this list of tables and the table heading and table description that immediately precede the table. We are correcting these errors in section III.5. of this correction notice.

In addition, we inadvertently included two section 508 hospitals in the FY 2010 wage index as reclassified under the Medicare Geographic Classification Review Board (MGCRB) rather than assigning them their section 508 reclassification. Therefore, in section III.3., 4. and 6.b. of this notice, we are correcting, Tables 2, 4C, and 9B. In Table 9B, we also inadvertently titled the third column “Geographic CBSA” instead of “Section 508 Reclassification CBSA.” We are correcting this error in section III.6.a. of this correction notice.

III. Correction of Errors

In FR Doc. 2010–12563 of June 2, 2010, make the following corrections:

1. On page 31147,
   a. First column, in the title for Table 1A, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   b. Second column—

   (1) In the title for Table 1B, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (2) In the title for Table 1C, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (3) In the title for Table 1D, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (4) In the title for Table 1E, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (5) In the title for Table 2, the parenthetical phrase, “(April 1, 2010 through September 30, 2010)” is corrected to read “(April 1, 2010 through September 30, 2010 unless otherwise footnoted).”
   c. Third column, the title, “Table 4J.—Out-Migration Adjustment—FY 2010 (April 1, 2010 through September 30, 2010)” is corrected to read “Table 4J.—(Abbreviated) Out-Migration Adjustment for Acute Care Hospitals—FY 2010 (April 1, 2010 through September 30, 2010)”

2. On page 31148—
   a. First column—

   (1) In the title for Table 1A, in the bracketed statement, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (2) In the title for Table 1B, in the bracketed statement, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (3) In the title for Table 1C, in the bracketed statement, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   b. Second column

   (1) In the title for Table 1D, in the bracketed statement, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   (2) In the title for Table 1E, in the bracketed statement, the date “October 1, 2009” is corrected to read “April 1, 2010.”
   3. On pages 31148 through 31211, in Table 2—
   a. In the title for Table 2, the parenthetical phrase “(April 1, 2010 through September 30, 2010)” is corrected to read “(April 1, 2010 through September 30, 2010 unless otherwise footnoted).”
   b. The listed entries are corrected to read as follows:
### Table 2—Hospital Case-Mix Indexes for Discharges Occurring in Federal Fiscal Year 2008; Hospital Wage Indexes for Federal Fiscal Year 2010 (April 1, 2010 through September 30, 2010 unless otherwise footnoted); Hospital Average Hourly Wages for Federal Fiscal Years 2008 (2004 wage data), 2009 (2005 wage data), and 2010 (2006 wage data); and 3-Year Average of Hospital Average Hourly Wages

<table>
<thead>
<tr>
<th>Provider No.</th>
<th>Case-mix index</th>
<th>FY 2010 wage index</th>
<th>Average hourly wage FY 2008</th>
<th>Average hourly wage FY 2009</th>
<th>Average hourly wage FY 2010</th>
<th>Average hourly wage ** (3 years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>070006</td>
<td>1.5739</td>
<td>1.2695</td>
<td>39.3935</td>
<td>41.2165</td>
<td>41.9550</td>
<td>40.8714</td>
</tr>
<tr>
<td>070010</td>
<td>1.6536</td>
<td>1.2695</td>
<td>36.7227</td>
<td>38.6114</td>
<td>38.7345</td>
<td>38.0240</td>
</tr>
<tr>
<td>070015</td>
<td>1.5538</td>
<td>1.2695</td>
<td>37.3454</td>
<td>39.9249</td>
<td>42.4738</td>
<td>39.9222</td>
</tr>
<tr>
<td>070018</td>
<td>1.4603</td>
<td>1.2695</td>
<td>41.8400</td>
<td>42.7771</td>
<td>44.1370</td>
<td>42.8524</td>
</tr>
<tr>
<td>070028</td>
<td>1.5644</td>
<td>1.2695</td>
<td>38.0855</td>
<td>40.9645</td>
<td>41.2950</td>
<td>40.1486</td>
</tr>
<tr>
<td>070033</td>
<td>1.4800</td>
<td>1.2695</td>
<td>41.7955</td>
<td>44.6717</td>
<td>46.5982</td>
<td>44.4108</td>
</tr>
</tbody>
</table>

*The wage index for these section 508 and special exception providers are effective October 1, 2009 due to section 3137, as amended by section 10137 of the Affordable Care Act.*

4. On pages 31206 through 31209, in Table 4C, the wage index and geographic adjustment factors for the listed entries are corrected to read as follows:

### Table 4C—Wage Index and Capital Geographic Adjustment Factor (GAF) for Acute Care Hospitals that Are Reclassified by CBSA and by State—FY 2010 (April 1, 2010 through September 30, 2010)

<table>
<thead>
<tr>
<th>CBSA Code</th>
<th>Area</th>
<th>State</th>
<th>Wage index</th>
<th>GAF</th>
</tr>
</thead>
</table>
5. On page 31211, in Table 4J, the table title and description are corrected to read as follows:

**Table 4J—(Abbreviated) Out-Migration Adjustment for Acute Care Hospitals—FY 2010 (April 1, 2010 Through September 30, 2010)**

The following abbreviated version of Table 4J lists one hospital that is added to the list of hospitals eligible to have their area wage index increased by the out-migration adjustment as a result of the implementation of the provisions of the Affordable Care Act. Hospitals cannot receive the out-migration adjustment if they are reclassified under section 1886(d)(10) of the Act or redesignated under section 1886(d)(8)(B) of the Act or if they are receiving a section 508 reclassification or special exception wage index. Hospitals that have already been reclassified under section 1886(d)(10) of the Act or redesignated under section 508(d)(8)(B) of the Act or that will now receive a section 508 reclassification or special exception wage index are designated with an asterisk.

6. On pages 31212 through 31213, in Table 9B—

a. Third column, the column heading “Geographic CBSA” is corrected to read “Section 508 Reclassification CBSA.”

b. The table is corrected by adding the following providers:

**Table 9B—Hospital Reclassifications and Redesignations by Individual Hospital Under Section 508 of Public Law 108–173**

[Revised as of April 1, 2010 and effective October 1, 2009 through September 30, 2010]

<table>
<thead>
<tr>
<th>Provider No.</th>
<th>Note</th>
<th>Section 508 reclassification CBSA</th>
<th>Wage index CBSA section 508 reclassification</th>
<th>Own wage index</th>
</tr>
</thead>
<tbody>
<tr>
<td>070010</td>
<td>-----</td>
<td>35644</td>
<td>1.2695</td>
<td></td>
</tr>
<tr>
<td>070028</td>
<td>-----</td>
<td>35644</td>
<td>1.2695</td>
<td></td>
</tr>
</tbody>
</table>

**IV. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the Federal Register to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with section 553(d) of the APA. However, we can waive this notice and comment procedure and the 30-day delay in the effective date if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

The changes made by this notice do not constitute agency rulemaking. This correction notice merely corrects typographical and technical errors in the addendum of the FY 2010 IPPS/RY 2010 LTCH PPS notice and does not make substantive changes to either that notice or the policies or methodologies set forth in the FY 2010 IPPS/RY 2010 LTCH PPS final rule. Instead, this correction notice is intended to ensure that the FY 2010 IPPS/RY 2010 LTCH PPS notice accurately describes the changes to the FY 2010 IPPS and FY 2010 LTCH PPS payment amounts required by the Affordable Care Act. We further note that this document makes corrections to a notice that itself did not constitute agency rulemaking; we refer readers to section III.B. of the FY 2010 IPPS/RY 2010 LTCH PPS notice for additional discussion on that point.

However, to the extent that notice and comment rulemaking or a delay in effective date or both would otherwise apply, we find that notice and comment rulemaking and a delay in effective date would be unnecessary and impracticable for the reasons set forth above, as well as for the reasons articulated in section III.B. of the FY 2010 IPPS/RY 2010 LTCH PPS notice.

(Dated: June 15, 2010.)

Dawn L. Smalls,
Executive Secretary to the Department.

[FR Doc. 2010–14810 Filed 6–15–10; 4:15 pm]

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