

CMS RELEASES FFY 2022 PROPOSED RULE, TRIGGERS WAGE INDEX AND RECLASSIFICATION DEADLINES

The FFY 2022 IPPS Proposed Rule ("Proposed Rule") was released on April 27, 2021, and CMS published the associated tables on its website. In addition, the Proposed Rule is expected to be published in the Federal Register on May 10.

The release of the Proposed Rule and the accompanying tables triggers the start of several deadlines for hospitals, including the unofficial start of the Medicare Geographic Classification Review Board ("MGCRB") application process. Hospitals should conduct a preliminary review of the Proposed Rule tables to assess whether they qualify for MGCRB reclassification this year. In addition, hospitals should assess whether they should file an MGCRB withdrawal or termination based on the Proposed Rule data.

BACKGROUND

The Medicare Hospital Inpatient Prospective Payment System ("IPPS") is designed to pay hospitals for services provided to Medicare beneficiaries based on a national standardized amount adjusted for the patient's condition and related treatment. Further, Social Security Act Section 1886(d)(3)(E) requires that the standardized amount be adjusted for differences in hospital wage levels, which CMS implemented through the wage index system. CMS also uses the hospital wage index for the Outpatient Prospective Payment System ("OPPS").

In computing the wage index, CMS calculates an average hourly wage for each urban and rural area (total wage costs divided by total hours for all hospitals in the geographic area) and a national average hourly wage (total wage costs divided by total hours for all hospitals in the nation). A labor market area's wage index value is the ratio of the area's average hourly wage to the national average hourly wage.

CMS defines hospital labor market areas based on the definitions of Core-Based Statistical Areas ("CBSAs") established by the Office of Management and Budget. A Metropolitan Statistical Area ("MSA") is a CBSA associated with at least one urbanized area that has a population of at least 50,000 that comprises the central county or counties containing the core, plus adjacent outlying counties that have a high degree of social and economic integration with the central county measured through commuting. Medicare payment programs classify hospitals into rural and urban status for a variety of purposes. An "urban area" is defined as an area within an MSA. A "rural area" is defined as any area outside an urban area. Note that the OMB has proposed a change that would increase the threshold to 100,000 for an area to qualify as urban, which we discussed in a prior [article](#), but that change would not be included in the FFY 2022 rulemaking process.

The Medicare program also has an "in-between" status called "Lugar status." Generally, these "Lugar counties" would otherwise be rural, but because of their proximity and commuting patterns to one or more MSAs, they are treated as urban for some purposes and rural for others. Finally, CMS provides an out-migration adjustment for hospitals located in certain counties that have a relatively high percentage of hospital employees who reside in the county but work in a different county (or counties) with a higher wage index. It is important to note that a hospital cannot receive the out-migration adjustment if it has an MGCRB reclassification or has Lugar status in effect.

WAGE INDEX RECLASSIFICATION

One of the ways hospitals can improve the wage index for their IPPS and OPPS payments is to apply for MGCRB wage index reclassification if it meets specified requirements. The MGCRB is an independent board organized under the Department of Health & Human Services that reviews applications submitted by hospitals seeking a higher wage index to a nearby MSA or a statewide rural area based on meeting certain published criteria. MGCRB applications may be submitted on an individual or group basis.

This year, MGCRB applications must be submitted by September 1, 2021 (the first business day in September) and are acted on by the MGCRB no later than the end of February 2022. If approved, reclassifications are effective for three years beginning October 1, 2022 (thirteen months after the submission deadline) for IPPS services. The new wage index is effective for OPPS services January 1, 2023 or three months after the October effective date for IPPS. The regulations allow for withdrawals, terminations and reinstatements each year of the reclassification.

It is also important to note that CMS published an Interim Final Rule in 2016 that allows hospitals to have both an MGCRB reclassification and an urban to rural reclassification, which opens up additional options for some hospitals. This is sometimes referred to as dual reclassification,

reclassification stacking or “Rurban” reclassification. Accompanying the FFY 2022 IPPS Proposed Rule, CMS released an Interim Final Rule clarifying the procedures for MGCRB wage tests for dual reclassified hospitals based on the recent *Bates County Memorial Hospital v. Azar* case. An article on the 2016 Interim Final Rule is available [here](#), and a webinar recording is available [here](#).

The Proposed Rule also triggers several important filing deadlines related to hospital wage indices:

- Lugar hospitals that also qualify for an out-migration adjustment can waive their Lugar status and accept the outmigration adjustment by notifying CMS within 45 days from the release of the public display copy of the Proposed Rule (*i.e.*, until June 11, 2021);
- Similarly, a hospital that previously waived Lugar status has 45 days from the release of the public display copy of the Proposed Rule (*i.e.*, until June 11, 2021) to notify CMS that they no longer wish to accept the outmigration adjustment and elect instead to return to Lugar (deemed urban) status;
- Hospitals have 45 days from the publication of the Proposed Rule in the Federal Register to request the withdrawal or terminations of an MGCRB reclassification. Since the Proposed Rule is expected to be published in the Federal Register on May 10, the deadline for withdrawals and terminations will likely be June 24, 2021.

Hall Render Advisory Services (a subsidiary of Hall Render) provides geographic reclassification services to hundreds of hospitals each year using fixed-rate fee arrangements. Last year, HRAS assisted over 300 hospitals to assess their reclassification opportunities based on the IPPS Proposed and Final Rules and filed MGCRB applications on behalf of over 100 hospitals.

If your hospital needs assistance assessing geographic reclassification opportunities or has questions regarding the wage index and reclassification process, please contact one of the following professionals:

- **Joseph Krause** at (414) 721-0906 or jkrause@novacompliance.com;
- **David Snow** at (303) 801-3536 or dsnow@novacompliance.com;
- **Lori Wink** at (414) 721-0456 or lwink@novacompliance.com; or
- Your primary Hall Render contact.

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