

19. U.S. EPA. 2010b. *Trichoderma gamsii* strain ICC 080 Biopesticides Registration Action Document dated March 4, 2010 (available as "Supporting & Related Material" within docket ID number EPA-HQ-OPP-2009-1003).
20. U.S. EPA. 2010c. *Trichoderma hamatum* isolate 382 Biopesticides Registration Action Document dated July 13, 2010 (available as "Supporting & Related Material" within docket ID Number EPA-HQ-OPP-2010-0489).

#### X. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between

the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require EPA consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

#### XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 20, 2012.

**Steven Bradbury,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1310 is added to subpart D to read as follows:

#### § 180.1310 *Trichoderma virens* strain G-41; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Trichoderma virens* strain G-41, in or on all food commodities, when applied

as a fungicide and used in accordance with good agricultural practices.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 412, 413, and 476

[CMS-1518-CN4]

RIN 0938-AQ24

#### Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2012 Rates; Corrections

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

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects technical errors that occurred in the Addendum of the final rule entitled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2012 Rates" which appeared in the August 18, 2011 **Federal Register**.

**DATES:** *Effective Date:* This document is effective January 31, 2012.

*Applicability Date:* The corrections noted in this document and posted on the CMS Web site are applicable to hospital payments and discharges on or after October 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Brian Slater, (410) 786-4487.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 2011-19719 of August 18, 2011 (76 FR 51476), the final rule entitled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2012 Rates and to the Long-Term Care Hospital Prospective Payment System and Rate Year 2012 Rates" (hereinafter referred to as the FY 2012 IPPS/FY 2012 LTCH PPS final rule) there were a number of technical errors in the tables included in the Addendum of the final rule which are, posted on the CMS Web site. In section II. of this correcting document, we describe these errors and note the tables that will include the corrections. We have already made changes to our rates, updated PRICER

and sent a Technical Director's Letter on December 20, 2011 informing fiscal intermediaries of these changes. Accordingly, the corrections are applicable to hospital discharges and payments on or after October 1, 2011.

## II. Summary of Errors and Corrections Posted on the CMS Web site

On pages 51812 and 51813, we list the tables that are tables available only through the Internet. We are making corrections to Tables 2, 4C, and 9A in this notice. Therefore, we have corrected these errors and will post corrections to Tables 2, 4C, and 9A on the CMS Web site at [http://www.cms.hhs.gov/AcuteInpatientPPS/01\\_overview.asp](http://www.cms.hhs.gov/AcuteInpatientPPS/01_overview.asp).

In Table 2.—Acute Care Hospitals Case-Mix Indexes for Discharges Occurring in Federal Fiscal Year 2010; Hospital Wage Indexes for Federal Fiscal Year 2012; Hospital Average Hourly Wages for Federal Fiscal Years 2010 (2006 Wage Data), 2011 (2007 Wage Data), and 2012 (2008 Wage Data); and 3-Year Average of Hospital Average Hourly Wages, we are correcting the wage index value for providers 010022, 010164, and 360096, which were inadvertently omitted from Table 9A as receiving a geographic reclassification for FY 2012.

In Table 4C.—Wage Index and Capital Geographic Adjustment Factor (GAF) for Acute Care Hospitals that are Reclassified, we are adding a wage index value for CBSA 11500 Anniston-Oxford, AL. Provider 010164 was omitted from Table 9A as being reclassified to CBSA 11500. As there was not a published value for CBSA 11500, due to no hospitals previously reclassified to that CBSA, we are adding a reclassified wage index in Table 4C.

In Table 9A.—Hospital Reclassifications and Redesignations—FY 2012, we are correcting the inadvertent omission of providers 010022, 010164, and 360096 from Table 9A by adding these 3 providers to the table.

## III. Waiver of Proposed Rulemaking and Delay in Effective Date

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)). However, we can waive this notice and comment procedure 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.

Section 553(b) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rulemaking that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical errors in the tables included in the Addendum of the FY 2012 IPPS/LTCH PPS final rule and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the tables included in the Addendum of the FY 2012 IPPS/LTCH PPS final rule accurately reflects the policies adopted in that rule.

In addition, even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 23, 2012.

**Jennifer M. Cannistra,**  
*Executive Secretary to the Department.*

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**BILLING CODE 4120-01-P**

## LEGAL SERVICES CORPORATION

### 45 CFR Part 1611

#### Income Level for Individuals Eligible for Assistance

**AGENCY:** Legal Services Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Legal Services Corporation (“Corporation”) is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

**DATES:** *Effective Date:* This rule is effective February 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Mattie Cohan, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295-1624; [mcohan@lsc.gov](mailto:mcohan@lsc.gov).

**SUPPLEMENTARY INFORMATION:** Section 1007(a)(2) of the Legal Services Corporation Act (“Act”), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(c) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Federal Poverty Guidelines. The figures for 2012 set out below are equivalent to 125% of the current Federal Poverty Guidelines as published on January 26, 2012 (77 FR 4034).

In addition, LSC is publishing a chart listing income levels that are 200% of the Federal Poverty Guidelines. This chart is for reference purposes only as an aid to grant recipients in assessing the financial eligibility of an applicant whose income is greater than 125% of the applicable Federal Poverty Guidelines amount, but less than 200% of the applicable Federal Poverty Guidelines amount (and who may be found to be financially eligible under duly adopted exceptions to the annual income ceiling in accordance with sections 1611.3, 1611.4 and 1611.5).

#### List of Subjects in 45 CFR Part 1611

Grant programs—Law, Legal services.

For reasons set forth above, 45 CFR 1611 is amended as follows:

#### PART 1611—ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

**Authority:** Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).