

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

42 CFR Part 413

Principles of Reasonable Cost Reimbursement; Payment for End-Stage Renal Disease Services; Prospectively Determined Payment Rates for Skilled Nursing Facilities

CFR Correction

In Title 42 of the Code of Federal Regulations, Parts 400 to 429, revised as of October 1, 2001, § 413.86 is corrected, on page 525, by revising the designation (e)(4)(ii)(C)(2)(iii) to read (e)(4)(ii)(C)(2)(iii) and by adding (e)(4)(ii)(C)(2) introductory text, (i), and (ii) to read as follows:

§ 413.86 Direct graduate medical education payments.

* * * * *

(e)* * *

(4)* * *

(ii)* * *

(C)* * *

(2) *Ceiling.* If the hospital's per resident amount is greater than 140 percent of the locality-adjusted national average per resident amount, the per resident amount is adjusted as follows for FY 2001 through FY 2005:

(i) *FY 2001.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2001, if the hospital's FY 2000 per resident amount exceeds 140 percent of the FY 2001 locality-adjusted national average per resident amount (as calculated under paragraph (e)(4)(ii)(B) of this section), then, subject to the provision stated in paragraph (e)(4)(ii)(C)(2)(iv) of this section, the hospital's per resident amount is frozen at the FY 2000 per resident amount and is not updated for FY 2001 by the CPI-U factor.

(ii) *FY 2002.* For cost reporting periods beginning on or after October 1, 2001 and on or before September 30, 2002, if the hospital's FY 2001 per resident amount exceeds 140 percent of the FY 2002 locality-adjusted national average per resident amount, then, subject to the provision stated in paragraph (e)(4)(ii)(C)(2)(iv) of this section, the hospital's per resident amount is frozen at the FY 2001 per resident amount and is not updated for FY 2002 by the CPI-U factor.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 460

[CMS-1201-IFC]

RIN 0938-AL59

Medicare and Medicaid Programs; Programs of All-inclusive Care for the Elderly (PACE); Program Revisions

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

ACTION: Interim final rule with comment period.

SUMMARY: This rule revises the interim final rule with comment period that established requirements for Program of All-inclusive Care for the Elderly (PACE) under the Medicare and Medicaid programs. The revisions in this rule will implement section 903 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Pub. L. 106-554) by establishing a process through which PACE organizations may request waiver of certain Medicare and Medicaid regulatory requirements.

DATES: *Effective date:* These regulations are effective on October 31, 2002.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on December 2, 2002.

ADDRESSES: In commenting, please refer to file code CMS-1201-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1201-IFC, P.O. Box 8017, Baltimore, MD 21244-8017.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-14-03, 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to

persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Janet Samen, (410) 786-4533; or Sue Davison, for State technical assistance, (410) 786-5831.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, call (410) 786-7195.

I. Background

A. Legislative History

Section 4801 of Public Law 105-33, the Balanced Budget Act of 1997 (BBA), authorized coverage of the Program of All-inclusive Care for the Elderly (PACE) under the Medicare program. It amended title XVIII of the Social Security Act (the Act) by adding section 1894, which addresses Medicare payments and coverage of benefits under PACE. Section 4802 of the BBA authorized the establishment of PACE as a State option under Medicaid. It amended title XIX of the Act by adding section 1934, which directly parallels the provisions of section 1894.

B. Demonstration Project History

The BBA built on the success of the PACE demonstration program. Section 603(c) of the Social Security Amendments of 1983 (Pub. L. 98-21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) authorized the original demonstration waiver for On Lok Senior Health Services in San Francisco. Section 9412(b) of Public Law 99-509, the Omnibus Budget Reconciliation Act of 1986, authorized us to conduct a demonstration project to determine