

### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 31, 2005. Filing a petition for reconsideration by the Administrator of this final rule approving source-specific RACT requirements for three sources in the Commonwealth of Pennsylvania does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 24, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Salem Tube, Inc., SGL Carbon Corporation, and Dominion Trans, Inc. at the end of the table to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
* * * * *					
SGL Carbon Corporation .....	OP 24-131 ..	Elk .....	5/12/95; 5/31/95 .....	4/1/05, [Insert page number where the document begins].	52.2020(d)(1)(e).
Salem Tube, Inc. ....	OP 43-142 ..	Mercer .....	2/16/99 .....	4/1/05, [Insert page number where the document begins].	52.2020(d)(1)(e).
Dominion Trans, Inc .....	18-0006 .....	Clinton .....	6/15/99; 9/29/03 .....	4/1/05, [Insert page number where the document begins].	52.2020(d)(1)(e).

\* \* \* \* \*

[FR Doc. 05-6378 Filed 3-31-05; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 403, 405, 410, 411, 414, 418, 424, 484, and 486

[CMS-1429-F2]

RIN 0938-AM90

#### Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005: Correcting Amendment

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on November 15, 2004 entitled "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005."

**DATES:** *Effective Date:* This rule is effective January 1, 2005.

**FOR FURTHER INFORMATION CONTACT:**  
Diane Milstead, (410) 786-3355.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 04-24758 of November 15, 2004 (69 FR 66236), there were a number of technical errors that we are identifying and correcting in the "Correction of Errors" section of this correcting amendment. Additionally, there are various revisions to Addenda B, C and F.

##### Discussion of Addenda B, C and F

In Addenda B and C, we assigned incorrect status indicators to the following CPT and HCPCS codes: Page 66429 for CPT codes 0066T and 0074T, page 66502 for CPT code 36415, page 66504 for CPT code 37195, pages 66682 and 66688 for HCPCS code G0363. We also assigned incorrect global periods for the following CPT and HCPCS codes: Page 66539 for CPT code 54150; pages 66638 and 66687 for CPT codes 91034, 91034-26, 91034-TC, 91035, 91035-26, 91035-TC, 91037, 91037-26, 91037-TC, 91038 91038-26, 91038-TC, 91040, 91040-26, 91040-TC; and pages 66682 and 66688 for G0350, G0354 and G0358. These corrections are reflected in section II.C.1 of this correcting amendment.

The short descriptors for the following HCPCS codes were listed incorrectly on page 66681: G0324, G0325, G0326 and G0327. The corrected descriptors are shown in section II.C.1 of this correcting amendment.

Incorrect practice expense relative value units (RVUs) were shown for the following CPT codes: Pages 66546 and 66685 for CPT code 58356; page 66557 for CPT codes 62367 and 62368; page 66614 for CPT code 77418; pages 66627 and 66686 for CPT codes 78811-26, 78812-26, 78813-26, 78814-26, 78815-26 and 78816-26; page 66629 for CPT code 88125 and 88125-TC; pages 66633 and 66687 for CPT codes 88367, 88367-TC, 88368, 88368-TC and 89220; and page 66665 for CPT code 96567. The corrected RVUS are shown in section II.C.2 of this correcting amendment.

On page 66666, we inadvertently included work and malpractice RVUs for acupuncture services, CPT codes 97810, 97811, 97813 and 97814 and there services are not covered by Medicare. We typically do not publish RVUs for services that Medicare does not cover. Instead, we list these services with "0.00's" in the RVU columns. This correction is reflected in section II.C.2 of this correcting amendment.

The following HCPCS codes were discussed on page 66308 of the rule but were inadvertently omitted from page

66683 of Addendum B: G9021, G9022, G9023, G9024, G0925, G9026, G9027, G9028, G9029, G9030, G09031 and G9032. The HCPCS codes are shown in section II.C.3 of this correcting amendment.

On page 66900, the title should be corrected to read "Addendum L."

#### *Discussion of Regulation Text Errors*

In the regulation text we made technical omissions that should have been included in §§ 403.766, 414.39, and 424.80. The corrections are reflected in section II.B. of this correcting amendment.

## **II. Correction of Errors**

In FR Doc. 02-37639 of November 15, 2004 (69 FR 66236), make the following corrections—

### *A. Correction of Preamble Errors*

1. Under "For Further Information Contact" on page 66236, third column and on page 66237 in the first column make the following corrections:

Bill Larson (410) 786-4639 or Tiffany Sanders (410) 786-1948 for issues

related to coverage of an initial preventive physical exam.

Joyce Eng (410) 786-4619 for issues related to coverage of cardiovascular screening tests.

Betty Shaw (410) 786-4165 for issues related to coverage of diabetes screening tests.

Steve Berkowitz (410) 786-0277 for issues related to coverage of routine costs associated with certain clinical trials.

Karen Daily (410) 786-0189 for issues related to clinical conditions for payment of covered items of durable medical equipment.

2. On page 66237, third column, start a new line after "Section VI. Five-Year Refinement of Relative Value Units" and before "Section VII. Update to the Codes for Physician Self-Referral Prohibition".

3. In Table 2, "Equipment Items Needing Specialty Input for Pricing and Proposed Deletions", on page 66252 under the column labeled "Commenter response", the price referenced for neurobehavioral status instrument-average was listed incorrectly. This

should be corrected to read "Submitted price of \$13,635".

4. In table 5 and table 7 on pages 66268 and 66270, we incorrectly used the specialty description "Osteopathic Manipulative Therapy." This should be revised to read "Osteopathic Manipulative Medicine."

5. On page 66306, first column, last sentence, in the response, we erroneously stated "Physicians should use HCPCS code G0352 for injections previously billed under CPT code 90783." This is incorrect. This sentence should be corrected to read "Physicians should continue using CPT code 90783 when billing for an intra-arterial therapeutic or diagnostic injection."

6. On page 66369, in the first column, first paragraph, third sentence, "CRP codes" should be corrected to read "CPT codes" and in the first line of the second column, "work PVUs" should be corrected to read "work RVUs."

7. On page 66385, the statutory formula that follows the first sentence in the third column did not print legibly. The referenced formula and information should read as follows:

$$UAF = \frac{\text{Target}_{04} - \text{Actual}_{04}}{\text{Actual}_{04}} \times .75 + \frac{\text{Target}_{4/96-12/04} - \text{Actual}_{4/96-12/04}}{\text{Actual}_{04} \times \text{SGR}_{05}} \times .33$$

UAF = Update Adjustment Factor.  
Target<sub>04</sub> = Allowed Expenditures for 2004 or \$77.1 billion.

Actual<sub>04</sub> = Estimated Actual Expenditures for 2004 = \$84.9 billion.

Target<sub>4/96-12/04</sub> = Allowed Expenditures from 4/1/1996-12/31/2004 = \$531.8 billion.

Actual<sub>4/96-12/04</sub> = Estimated Actual Expenditures from 4/1/1996-12/31/2003 = \$545.5 billion.

SGR<sub>05</sub> = 4.3 percent (1.043).

$$\frac{\$77.1 - \$84.9}{\$84.9} \times .75 + \frac{\$531.8 - \$545.5}{\$84.9 \times 1.043} \times .33 = -0.120$$

8. In the first column, second paragraph, second sentence on page 66404 we state "Payment in 2005 for G0351 (the comparable code) will be \$125.69." This should be corrected to read as follows "Payment in 2005 for G0357 (the comparable code) will be \$125.69."

9. On page 66408, the second column, the last sentence in the first full paragraph, the referenced estimate related to utilization growth for rheumatology is incorrectly stated as 9 percent. This should be corrected to read "would increase by 16 percent."

10. On page 66412, third column, following table 46, line 4, the discussion concerning sections 303-304, the first complete sentence beginning "In addition, we are also paying a supplying fee \* \* \*" is corrected to read as follows: "In addition, we are also paying

a supplying fee of \$50 for the initial immunosuppressive prescription in the first month after a beneficiary has a transplant and a per prescription supplying fee of \$24 for each supplied immunosuppressive prescription thereafter and for each supplied oral anti-cancer and oral anti-emetic prescription."

### *B. Correction of Regulation Text Errors*

■ Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to parts 403, 414, and 424:

#### **PART 403—[CORRECTED]**

■ 1. The authority citation for part 403 continues to read as follows:

**Authority:** 42 U.S.C. 1359b-3 and secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

#### **§ 403.766 [Corrected]**

■ 2. Section 403.766 is amended by revising paragraph (a) introductory text to read as follows:

#### **§ 403.766 Requirements for coverage and payment of RNHCI home services.**

(a) Medicare Part A pays for RNHCI home services if the RNHCI provider does the following:

\* \* \* \* \*

#### **PART 414—[CORRECTED]**

■ 3. The authority citation for part 414 continues to read as follows:

**Authority:** Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

#### § 414.39 [Corrected]

■ 4. Section 414.39 is amended by revising paragraph (c)(1) to read as follows:

#### § 414.39 Special rules for payment of care plan oversight.

\* \* \* \* \*

(c) \* \* \*

(1) An NPP can furnish physician care plan oversight (but may not certify a patient as needing home health services) only if the physician who signs the plan of care provides regular ongoing care under the same plan of care as does the NPP billing for care plan oversight and either—

\* \* \* \* \*

#### PART 424—[CORRECTED]

■ 5. The authority citation for part 424 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

#### § 424.80 [Corrected]

■ 6. Section 424.80 is amended by revising paragraph (a) to read as follows:

#### § 424.80 Prohibition of reassignment of claims by suppliers.

(a) *Basic prohibition.* Except as specified in paragraph (b) of this section, Medicare does not pay amounts that are due a supplier under an assignment to any other person under reassignment, power of attorney, or any other direct arrangement. Nothing in

this section alters a party's obligations under the anti-kickback statute (section 1128B(b) of the Act), the physician self-referral prohibition (section 1877 of the Act), the rules regarding physician billing for purchased diagnostic tests (§ 414.50 of this chapter), the rules regarding payment for services and supplies incident to a physician's professional services (§ 410.26 of this chapter), or any other applicable Medicare laws, rules, or regulations.

\* \* \* \* \*

#### C. Correction of Errors in the Addendum

1. In Addenda B and C, the following CPT and HCPCS codes are corrected to read as follows:

[BILLING CODE 4120-01-P]

CPT/ HCPCS 2	MOD	Status	Description	Physician Work RVUs	Non-facility PE RVUs	Facility PE RVUs	Malpractice RVUs	Non- facility Total	Facility Total	Global
0066T		N	Ct colonography; screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
0074T		N	Online physician e/m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36415		X	Routine venipuncture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
37195		C	Thrombolytic therapy, stroke	0.00	0.00	NA	0.00	0.00	NA	XXX
54150		A	Circumcision	1.81	4.35	0.70	0.16	6.32	2.67	000
91034		A	Gastroesophageal reflux test	0.97	5.24	NA	0.12	6.33	NA	000
91034	26	A	Gastroesophageal reflux test	0.97	0.34	0.34	0.06	1.37	1.37	000
91034	TC	A	Gastroesophageal reflux test	0.00	4.90	NA	0.06	4.96	NA	000
91035		A	G-esoph reflx tst w/electrod	1.59	10.80	NA	0.12	12.51	NA	000
91035	26	A	G-esoph reflx tst w/electrod	1.59	0.56	0.56	0.06	2.21	2.21	000
91035	TC	A	G-esoph reflx tst w/electrod	0.00	10.24	NA	0.06	10.30	NA	000
91037		A	Esoph imped function test	0.97	2.93	NA	0.12	4.02	NA	000
91037	26	A	Esoph imped function test	0.97	0.34	0.34	0.06	1.37	1.37	000
91037	TC	A	Esoph imped function test	0.00	2.59	NA	0.06	2.65	NA	000
91038		A	Esoph imped funct test > 1h	1.10	2.22	NA	0.12	3.44	NA	000
91038	26	A	Esoph imped funct test > 1h	1.10	0.39	0.39	0.06	1.55	1.55	000
91038	TC	A	Esoph imped funct test > 1h	0.00	1.83	NA	0.06	1.89	NA	000
91040		A	Esoph balloon distension tst	0.97	11.13	NA	0.12	12.22	NA	000
91040	26	A	Esoph balloon distension tst	0.97	0.34	0.34	0.06	1.37	1.37	000
91040	TC	A	Esoph balloon distension tst	0.00	10.79	NA	0.06	10.85	NA	000
G032 4		A	ESRD related serv /dy, 2y	0.35	0.24	0.24	0.01	0.60	0.60	XXX
G032 5		A	ESRD related serv / dy 2- 11yr	0.23	0.12	0.12	0.01	0.36	0.36	XXX
G032 6		A	ESRD related serv / dy 12- 19y	0.27	0.13	0.13	0.01	0.41	0.41	XXX
G032 7		A	ESRD related serv / dy 20+yrs	0.14	0.08	0.08	0.01	0.23	0.23	XXX
G035 0		A	Concurrent infusion	0.17	0.44	NA	0.04	0.65	NA	ZZZ
G035 4		A	Each addition sequential IV	0.10	0.57	NA	0.04	0.71	NA	ZZZ
G035 8		A	IV push each additional drug	0.20	1.61	NA	0.06	1.87	NA	ZZZ
G036 3		T	Irrigate implanted venous de	0.04	0.69	NA	0.01	0.74	NA	ZZZ

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2. In Addenda B and C, the following CPT and HCPCS codes are corrected to read as follows:

CPT <sup>1</sup> / HCPCS <sup>2</sup>	MOD	Status	Description	Physician Work RVUs	Non- facility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility Total	Facility Total	Global
58356		A	Endometrial cryoablation	6.36	61.43	2.69	0.82	68.61	9.87	010
62367		A	Analyze spine infusion pump	0.48	0.61	0.10	0.03	1.12	0.61	XXX
62368		A	Analyze spine infusion pump	0.75	0.69	0.17	0.06	1.50	0.98	XXX
77418		A	Radiation tx delivery, imrt	0.00	18.02	NA	0.13	18.15	NA	XXX
78811	26	I	Tumor imaging (pet), limited	1.54	0.53	0.53	0.11	2.18	2.18	XXX
78812	26	I	Tumor imaging (pet),skul-thigh	1.93	0.66	0.66	0.11	2.70	2.70	XXX
78813	26	I	Tumor imaging (pet),full body	2.00	0.69	0.69	0.11	2.80	2.80	XXX
78814	26	I	Tumor imaging pet/ct, limited	2.20	0.76	0.76	0.11	3.07	3.07	XXX
78815	26	I	Tumor imaging pet/ct, skul-thigh	2.44	0.84	0.84	0.11	3.39	3.39	XXX
78816	26	I	Tumor imaging pet/ct, full body	2.50	0.86	0.86	0.11	3.47	3.47	XXX
88125		A	Forensic cytopathology	0.26	0.27	NA	0.02	0.55	NA	XXX
88125	TC	A	Forensic cytopathology	0.00	0.16	NA	0.01	0.17	NA	XXX
88367		A	Insitu hybridization, auto	1.30	4.03	NA	0.12	5.45	NA	XXX
88367	TC	A	Insitu hybridization, auto	0.00	3.49	NA	0.06	3.55	NA	XXX
88368		A	Insitu hybridization, manual	1.40	2.39	NA	0.12	3.91	NA	XXX
88368	TC	A	Insitu hybridization, manual	0.00	1.79	NA	0.06	1.85	NA	XXX
89220		A	Sputum specimenm collection	0.00	0.43	NA	0.02	0.45	NA	XXX
96567		A	Photodynamic tx, skin	0.00	1.95	NA	0.04	1.99	NA	XXX
97810		N	Acupunct w/o stimul 15 min	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97811		N	Acupunct w/o stimul addl 15 min	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
97813		N	Acupunct w/ stimul 15 min	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97814		N	Acupunct w/o stimul addl 15 min	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ

1 All CPT codes copyright 2005 American Medical Association

3. In Addendum B, the following HCPCS codes are included to read as follows:

CPT <sup>1</sup> / HCPCS <sup>2</sup>	MOD	Status	Description	Physician Work RVUs	Non- facility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility Total	Facility Total	Global
G9021		X	Chemo assess nausea vomit L1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9022		X	Chemo assess nausea vomit L2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9023		X	Chemo assess nausea vomit L3	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9024		X	Chemo assess nausea vomit L4	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9025		X	Chemo assessment pain L1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9026		X	Chemo assessment pain L2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9027		X	Chemo assessment pain L3	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9028		X	Chemo assessment pain L4	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9029		X	Chemo assess for fatigue L1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9030		X	Chemo assess for fatigue L2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9031		X	Chemo assess for fatigue L3	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9032		X	Chemo assess for fatigue L4	0.00	0.00	0.00	0.00	0.00	0.00	XXX

<sup>1</sup> All CPT codes copyright 2005 American Medical Association

### III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment prior to publication of a final notice. We can waive this procedure, however, if we find good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued. In accordance with section 903 of the MMA, failure to retroactively apply the corrections would be contrary to the public interest.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. Therefore, we find good cause to waive notice and comment procedures.

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

Dated: March 16, 2005.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

[FR Doc. 05–6131 Filed 3–25–05; 8:45 am]

**BILLING CODE 4120–01–C**

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 412 and 413

[CMS–1213–CN]

RIN 0938–AL50

#### Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilities; Final Rule; Correction

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

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects errors that appeared in the final rule published in the **Federal Register** on November 15, 2004, entitled “Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilities.” This document also supplements the November 15, 2004 final rule.

**DATES:** Effective January 1, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Janet Samen, (410) 786–9161.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 04–24787 of November 15, 2004 (69 FR 66922), there were several errors that are identified in the “Summary of Errors” section and corrected in the “Correction of Errors” section below. In addition to clarifying ambiguities and correcting typographical errors and incorrect references, this document is a supplement to the document published on November 15, 2004, entitled

“Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilities” (hereinafter referred to as the IPF PPS final rule or final rule) because it includes a timely submitted comment and our response that we inadvertently failed to include in the final rule. The provisions of this correction notice are effective as if they had been included in the final rule. Accordingly, the corrections are effective January 1, 2005.

##### II. Summary of Errors

In the November 15, 2004 final rule, in payment calculation examples, we stated that we computed a wage adjustment factor for each case by multiplying the Medicare 2005 hospital wage index for each facility by the labor-related share and adding the non-labor share. We used the correct labor share value of 72.247 percent on page 66953 in Table 8 of the final rule. However, we inadvertently did not use the correct labor-related and non-labor share values in other portions of the final rule. Instead of using 72.247 percent for the labor share and 27.753 percent for the non-labor share, we used a value of 72.528 percent for the labor share and 27.472 percent for the non-labor share. This error only affected the values in the payment calculation examples on pages 66942, 66943, 66960, and 66961 of the final rule (See sections III.A.9, III.A.10 and the values in the outlier calculation example in section III.A.25 of this correction notice). These errors did not have any effect on actual payments. The table in Addendum A on page 66982 of the final rule that contains the labor and non-labor portion of the Per Diem Rate is also corrected in section III.C of this correction notice.