

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Section 145.202	Definitions	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
Section 145.203	Applicability	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
Section 145.204	Incorporation of Federal regulations by reference.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
ADDITIONAL REQUIREMENTS FOR CHAPTER 127 EMISSION REDUCTION CREDIT PROVISIONS				
Section 145.205	Emission reduction credit provisions.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
ADDITIONAL REQUIREMENTS FOR CAIR NO_x ANNUAL TRADING PROGRAM				
Section 145.211	Timing Requirements for CAIR NO _x allowance allocations.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
Section 145.212	CAIR NO _x allowance allocations	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
Section 145.213	Supplemental monitoring, recordkeeping and reporting requirements for gross electrical output and useful thermal energy for units subject to 40 CFR 96.170–96.175.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
ADDITIONAL REQUIREMENTS FOR CAIR NO_x OZONE SEASON TRADING PROGRAM				
Section 145.221	Timing requirements for CAIR NO _x ozone season allowance allocations.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
Section 145.222	CAIR NO _x Ozone Season allowance allocations.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
Section 145.223	Supplemental monitoring, recordkeeping and reporting requirements for gross electrical output and useful thermal energy for units subject to 40 CFR 96.370–96.375.	4/12/08	12/10/09	<i>[Insert page number where the document begins].</i>
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§ 52.2040 [Removed and Reserved]

■ 3. Section 52.2040 is removed and reserved.

§ 52.2041 [Removed and Reserved]

■ 4. Section 52.2041 is removed and reserved.

[FR Doc. E9–29216 Filed 12–9–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****42 CFR Parts 410, 411, 414, 415, 485, and 498****[CMS–1413–CN3]****RIN 0938–AP40****Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2010; Corrections**

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

ACTION: Final rule; correction.

SUMMARY: This document corrects several technical and typographical errors in the final rule with comment period that appeared in the November 25, 2009, **Federal Register** entitled “Medicare Program; Payment Policies

Under the Physician Fee Schedule and Other Revisions to Part B for CY 2010”.

DATES: *Effective Date:* This correction is effective January 1, 2010.

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

SUPPLEMENTARY INFORMATION:**I. Background**

In FR Doc. E9–26502 of November 25, 2009 (74 FR 61738) (hereinafter referred to as the CY 2010 PFS final rule with comment period), there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section of this notice. The provisions of this notice are effective as if they had been included in the CY 2010 PFS final rule with comment period. Accordingly, the corrections are effective January 1, 2010.

II. Summary of Errors**A. Errors in the Preamble**

On page 61738, we are correcting the figure for the CY 2010 conversion factor (CF). This change results from a

technical error in adjusting relative value units (RVUs) to reflect the agency's policy related to the consultation codes.

On page 61746, we are correcting the note referencing the CF used in Table 1.

On pages 61747 and 61748, we are replacing Table 1, Calculation of practice expense (PE) relative value units (RVUs) under Methodology for Selected Codes.

On page 61941, we are correcting language concerning the Five-year Review of work and the potential for adjustment of PE RVUS.

On page 61952, in Table 30, we are correcting the CMS 2010 Interim work RVU (WRVU) for CPT code 51729–26.

On page 61955, we are correcting the reference to the status indicator assigned to CPT code 90470.

On page 61968, we are correcting the figures for the CY 2010 physician fee schedule (PFS) CF and national anesthesia CF for the reasons indicated above.

On page 61969, we are correcting the discussion concerning the CY 2010 CF for the reasons indicated above.

On page 61969, in Table 44, we are correcting the lines concerning the CY 2010 CF budget neutrality adjustment and CY 2010 CF for the reasons indicated above.

On page 61969, we are correcting the language preceding Table 45 for the reasons indicated above.

On page 61970, in Table 45, we are correcting the lines concerning the CY 2010 anesthesia adjustment and the CY 2010 anesthesia CF contained in the table for the reasons indicated above.

On pages 61985 and 61986, we are replacing Table 50 in its entirety to correct the payment amounts for CY 2010.

On page 62001, in the discussion concerning removing self-administered drugs from the SGR calculation we are deleting the word “proposal” which was inadvertently included in the sentence and substituting the word “change”. We are also correcting the CY 2010 payment amounts associated with CPT code 99203.

B. Errors in the Addenda

On pages 62044 through 62143 of Addendum B, Relative Value Units and Related Information Used in Determining Medicare Payments for 2009, the RVUs and status indicators listed for CPT codes 90470, and 95803, 95803–TC 95803–26 are corrected. In addition the RVUs for CPT codes 51729, 51729–26, 74261, 74261–TC, 74262, 74262–TC, 75571, 75571–TC, 75572,

75572–TC, 75573, 75573–TC, 77078, 77078–TC, 77084, 77084–TC, 94011, 94012, 94013, 99221, 99222, 99223, 99304, 99305 and 99306, G0425, G0426, G0427, G0252–26 and the global period for CPT codes 75565, 75565–TC, 75565–26 are corrected.

On pages 62145 and 62146, of Addendum C, Codes with Interim RVUs, the global period listed for CPT code 75565 and the RVUs for CPT codes 51729–26, 94011, 94012 and 94013 are corrected.

III. Correction of Errors

In FR Doc. E9–26502 of November 25, 2009 (74 FR 61738), make the following corrections:

A. Corrections to the Preamble

1. On page 61738, in the 1st column; in the 2nd paragraph, line 13, the figure “\$28.4061” is corrected to read “\$28.3895.”

2. On page 61746, in the 3rd column; in the last paragraph, line 3, the figure “\$28.3769” is corrected to read “\$36.0666.”

3. On pages 61747 and 61748, Table 1 is replaced in its entirety to reflect the corrected CF.

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TABLE 1: Calculation of PE RVUs Under Methodology For Selected Codes

[illegible]

		Step	Source	Formula	99213	33533	71020	71020TC	7102026	93000	93005	93010
					Office visit, est Nonfacility	CABG, arterial, single Facility	Chest x-ray Nonfacility	Chest x-ray Nonfacility	Chest x-ray Nonfacility	ECG, complete Nonfacility	ECG, tracing Nonfacility	ECG, report Nonfacility
(21)	Ind. Alloc. (2nd part)	Step 8		See (20)	0.97	33.75	0.30	0.08	0.22	0.25	0.08	0.17
(22)	Indirect Allocator (1st+2nd)	Step 8		$=(19)+(21)$	1.63	39.13	0.90	0.68	0.22	0.51	0.34	0.17
(23)	Indirect Adjustment (Ind Adj)	Steps 9-11	See footnote** =Ind Alloc *		0.370	0.370	0.370	0.370	0.370	0.370	0.370	0.370
(24)	Adjusted Indirect Allocator	Steps 9-11	Ind Adj		0.60	14.36	0.33	0.25	0.08	0.19	0.12	0.06
(25)	Ind Practice Cost Index (PCI)	Steps 12- 16	See Steps 12-16		1.090	0.890	0.860	0.860	0.860	0.930	0.930	0.930
(26)	Adjusted Indirect	Step 17	= Adj. Ind Alloc*PCI	$=(24)*(25)$	0.66	12.81	0.28	0.21	0.07	0.17	0.12	0.06
(27)	PERVU	Steps 18- 19	=(Adj Dir+Adj Ind) *budn	$=(14)+(26))$ *budn	0.88	13.91	0.52	0.45	0.07	0.28	0.22	0.06

Note: PE RVU in Table 1, row 27, may not match Addendum B due to rounding.

* The direct adj = [current pe rvus * CF * avg dir pct] / [sum direct inputs] = [Step 2] / [Step 3]

** The indirect adj = [current pe rvus * avg ind pct] / [sum of ind allocators] = [Step 9] / [Step 10]

4. On page 61941, in the 2nd column; in the 3rd paragraph, lines 12 through 14, the phrase “the PE inputs, and we could be impacted and we would them

accordingly” is corrected to read “the PE inputs could be impacted and we would therefore adjust them accordingly.”

5. On page 61952, in Table 30, line 15, is corrected to read as follows:

#	51729	26	CYSTOMETROGRAM W/VP&UP	2.51	Agree	2.11
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6. On page 61955, in the 1st column; in the 2nd full paragraph, the last sentence, “We have assigned a status indicator of “N” (Non-covered) to this service and will publish the AMA RUC-recommended value in accordance with our practice for non-covered CPT codes” is corrected to read “We have assigned a status indicator of “I” (Not valid for Medicare purposes. Medicare

uses another code for the reporting of and the payment for these services). We will publish the AMA RUC-recommended value in accordance with the practice for non-covered CPT codes.”

7. On page 61968, in the 2nd column; in the 1st full paragraph under Table 43,

a. Line 1, the figure “\$28.4061” is corrected to read “\$28.3895”.

b. Line 3, the figure “\$16.6191” is corrected to read “\$16.6108”.

8. On page 61969,

a. In the 3rd column, in the 1st partial paragraph, line 3, the figure “1.00103” is corrected to read “1.000445”.

b. In Table 44 the last two lines are corrected to read as follows:

TABLE 44—CALCULATION OF THE CY 2010 PFS CF

CY 2010 CF Budget Neutrality Adjustment	0.0445 percent (1.000445).	
CY 2010 Conversion Factor		\$28.3895

c. In the 3rd column, the paragraph following Table 44, the last 2 lines, the phrase “policies for PE and malpractice

RVUs” is corrected to read “policies for work, PE, and malpractice RVUs”.

9. On page 61970, Table 45, the last two lines of are corrected to read as follows:

TABLE 45—CALCULATION OF THE CY 2010 ANESTHESIA CONVERSION FACTOR

CY 2010 Anesthesia Adjustment	0.94 percent (1.0094).	
CY 2010 Anesthesia Conversion Factor		\$16.6108

10. On pages 61985 and 61986, Table 50 is corrected in its entirety including the title to read as follows:

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TABLE 50: Impact of Final Rule with Comment Period and Physician Update on CY 2010 Payment for Selected Procedures

CPT ¹ / HCPCS	MOD	Description	Facility			Non-facility		
			2009	2010	Percent Change	2009	2010	Percent Change
11721		Debride nail, 6 or more	\$27.77	\$20.72	-25%	40.39	\$31.23	-23%
17000		Destruct premalg lesion	\$48.69	\$40.88	-16%	69.97	\$57.91	-17%
27130		Total hip arthroplasty	\$1,359.71	\$1,082.21	-20%	NA	NA	NA
27244		Treat thigh fracture	\$1,144.39	\$916.98	-20%	NA	NA	NA
27447		Total knee arthroplasty	\$1,456.37	\$1,157.72	-21%	NA	NA	NA
33533		CABG, arterial, single	\$1,892.05	\$1,533.32	-19%	NA	NA	NA
35301		Rechanneling of artery	\$1,067.93	\$868.15	-19%	NA	NA	NA
43239		Upper GI endoscopy, biopsy	\$165.55	\$134.00	-19%	323.16	\$256.92	-20%
66821		After cataract laser surgery	\$251.38	\$216.33	-14%	266.53	\$228.54	-14%
66984		Cataract surg w/iol, 1 stage	\$638.74	\$548.77	-14%	NA	NA	NA
67210		Treatment of retinal lesion	\$561.56	\$478.65	-15%	580.67	\$493.69	-15%
71010		Chest x-ray	NA	NA	NA	24.16	\$18.17	-25%
71010	26	Chest x-ray	\$9.02	\$7.10	-21%	9.02	\$7.10	-21%
77056		Mammogram, both breasts	NA	NA	NA	107.48	\$82.90	-23%
77056	26	Mammogram, both breasts	\$44.36	\$34.64	-22%	44.36	\$34.64	-22%
77057		Mammogram, screening	NA	NA	NA	81.15	\$61.61	-24%
77057	26	Mammogram, screening	\$35.71	\$27.82	-22%	35.71	\$27.82	-22%
77427		Radiation tx management, x5	\$188.27	\$153.02	-19%	188.27	\$153.02	-19%
78465	26	Heart image (3d), multiple	\$78.99	\$62.17	-21%	78.99	\$62.17	-21%
88305	26	Tissue exam by pathologist	\$37.15	\$28.96	-22%	37.15	\$28.96	-22%
90801		Psy dx interview	\$128.04	\$100.21	-22%	152.92	\$120.94	-21%
90862		Medication management	\$45.08	\$35.77	-21%	55.18	\$44.29	-20%
90935		Hemodialysis, one evaluation	\$66.36	\$53.09	-20%	NA	NA	NA
92012		Eye exam established pat	\$45.80	\$38.33	-16%	70.69	\$58.77	-17%
92014		Eye exam & treatment	\$70.33	\$58.77	-16%	103.15	\$85.74	-17%
92980		Insert intracoronary stent	\$847.93	\$644.16	-24%	NA	NA	NA
93000		Electrocardiogram, complete	\$20.92	NA	NA	20.92	\$15.61	-25%
93010		Electrocardiogram report	\$9.02	\$7.10	-21%	9.02	\$7.10	-21%
93015		Cardiovascular stress test	\$100.27	\$72.96	-27%	100.27	\$72.96	-27%
93307	26	Echo exam of heart	\$49.77	\$38.33	-23%	49.77	\$38.33	-23%
93510	26	Left heart catheterization	\$248.86	\$185.10	-26%	248.86	\$185.10	-26%
98941		Chiropractic manipulation	\$30.30	\$24.13	-20%	33.90	\$27.25	-20%
99203		Office/outpatient visit, new	\$68.17	\$57.35	-16%	91.97	\$76.94	-16%
99213		Office/outpatient visit, est	\$44.72	\$38.04	-15%	61.31	\$51.67	-16%
99214		Office/outpatient visit, est	\$69.25	\$58.77	-15%	92.33	\$77.50	-16%
99222		Initial hospital care	\$122.63	\$100.21	-18%	NA	NA	NA
99223		Initial hospital care	\$180.33	\$147.06	-18%	NA	NA	NA
99231		Subsequent hospital care	\$37.15	\$30.09	-19%	NA	NA	NA
99232		Subsequent hospital care	\$66.72	\$54.22	-19%	NA	NA	NA
99233		Subsequent hospital care	\$95.58	\$77.79	-19%	NA	NA	NA
99236		Observ/hosp same date	\$207.38	\$166.08	-20%	NA	NA	NA

CPT ¹ / HCPCS	MOD	Description	Facility			Non-facility		
			2009	2010	Percent Change	2009	2010	Percent Change
99239		Hospital discharge day	\$96.30	\$77.79	-19%	NA	NA	NA
99243		Office consultation	\$97.38	Discontinued	Discontinued	124.79	Discontinued	Discontinued
99244		Office consultation	\$154.00	Discontinued	Discontinued	184.30	Discontinued	Discontinued
99253		Inpatient consultation	\$114.69	Discontinued	Discontinued	NA	NA	NA
99254		Inpatient consultation	\$165.55	Discontinued	Discontinued	NA	NA	NA
99283		Emergency dept visit	\$61.31	\$48.55	-21%	NA	NA	NA
99284		Emergency dept visit	\$114.33	\$91.13	-20%	NA	NA	NA
99291		Critical care, first hour	\$212.07	\$170.05	-20%	253.91	\$203.27	-20%
99292		Critical care, add'l 30 min	\$106.04	\$84.88	-20%	114.69	\$91.70	-20%
99348		Home visit, est patient	NA	NA	NA	79.35	\$63.88	-19%
99350		Home visit, est patient	NA	NA	NA	160.86	\$130.31	-19%
G0008		Admin influenza virus vac	NA	NA	NA	20.92	\$16.75	-20%

11. On page 62001,

a. In the 1st column, in the 1st full paragraph, line 19, the phrase "proposal will cost" is corrected to read "change will cost".

b. In the 3rd column, the 1st full paragraph, the sentence "Based on this rule, the 2010 national payment amount in the non-facility setting for CPT code 99203, as shown in Table 49, is \$76.98

which means that, in 2010, the beneficiary coinsurance for this service would be \$15.40." is corrected to read "Based on this rule, the 2010 national payment amount in the non-facility setting for CPT code 99203, as shown in Table 50 is \$76.94 which means that, in 2010, the beneficiary coinsurance for this service would be \$15.38."

B. Corrections to the Addenda

1. On pages 62044 through 62143, in Addendum B: Relative Value Units and Related Information Used in Determining Medicare Payments for 2010, the following CPT codes are corrected to read as follows:

CPT ¹ / HCPCS	Mod	Status	Description	Physi- cian Work RVUs ²	Fully Imple- mented Non- Facility PE RVUs ²	Year 2010 Transi- tional Non- Facility PE RVUs ²	Fully Imple- mented Facility PE RVUs ²	Year 2010 Transi- tional Facility PE RVUs ²	Mal- Practice RVUs ²	Global
29870		A	Knee arthroscopy, dx	5.19	9.05	9.05	5.02	4.66	0.72	090
36481			Insertion of catheter, vein	6.98	45.38	14.46	2.41	2.41	0.65	000
37183		A	Remove hepatic shunt (tips)	7.99	127.96	127.96	2.45	3.16	0.54	000
47382		A	Percut ablate liver rf	15.22	102.11	102.11	5.05	6.35	1.06	010
50200		A	Renal biopsy perq	2.63	12.11	12.11	1.08	1.24	0.22	000
51729		A	Cystometrogram w/vp&up	2.51	6.03	6.03	NA	NA	0.14	000
51729	26	A	Cystometrogram w/vp&up	2.51	0.88	0.88	0.88	0.88	0.13	000
55873		A	Cryoablate prostate	13.60	147.06	147.06	6.30	10.14	1.46	090
74261		A	Ct colonography, w/o dye	2.28	8.95	8.95	NA	NA	0.10	XXX
74261	TC	A	Ct colonography, w/o dye	0.00	8.26	8.26	NA	NA	0.01	XXX
74262		A	Ct colonography, w/dye	2.50	10.12	10.12	NA	NA	0.11	XXX
74262	TC	A	Ct colonography, w/dye	0.00	9.36	9.36	NA	NA	0.01	XXX
75565		A	Card mri vel flw map add-on	0.25	2.27	2.27	NA	NA	0.02	ZZZ
75565	TC	A	Card mri vel flw map add-on	0.00	2.18	2.18	NA	NA	0.01	ZZZ
75565	26	A	Card mri vel flw map add-on	0.25	0.09	0.09	0.09	0.09	0.01	ZZZ
75571		A	Ct hrt w/o dye w/ca test	0.58	1.88	1.88	NA	NA	0.02	XXX
75571	TC	A	Ct hrt w/o dye w/ca test	0.00	1.70	1.70	NA	NA	0.01	XXX
75572		A	Ct hrt w/3d image	1.75	5.49	5.49	NA	NA	0.05	XXX
75572	TC	A	Ct hrt w/3d image	0.00	4.92	4.92	NA	NA	0.01	XXX
75573		A	Ct hrt w/3d image, congen	2.55	7.74	7.74	NA	NA	0.07	XXX
75573	TC	A	Ct hrt w/3d image, congen	0.00	6.97	6.97	NA	NA	0.01	XXX
77078		A	Ct bone density, axial	0.25	2.46	3.91	NA	NA	0.02	XXX
77078	TC	A	Ct bone density, axial	0.00	2.38	3.82	NA	NA	0.01	XXX
77084		A	Magnetic image, bone marrow	1.60	7.79	12.49	NA	NA	0.08	XXX
77084	TC	A	Magnetic image, bone marrow	0.00	7.29	11.91	NA	NA	0.01	XXX
90470		I	Immune admin H1N1 im/nasal	0.20	0.42	0.42	NA	NA	0.01	XXX
92610		A	Evaluate swallowing function	1.30	0.79	1.79	0.57	0.57	0.01	XXX
94011		A	Up to 2 yrs old, spirometry	2.00	NA	NA	0.62	0.62	0.05	XXX
94012		A	= 2 yrs, spirometry w/dilator	3.10	NA	NA	0.93	0.93	0.08	XXX
94013		A	= 2 yrs, lung volumes	0.66	NA	NA	0.18	0.18	0.03	XXX
95803		A	Actigraphy testing	1.00	2.22	2.22	NA	NA	0.05	XXX
95803	TC	A	Actigraphy testing	0.00	1.90	1.90	NA	NA	0.01	XXX
95803	26	A	Actigraphy testing	1.00	0.32	0.32	0.32	0.32	0.04	XXX
99221		A	Initial hospital care	1.92	NA	NA	0.71	0.59	0.13	XXX
99222		A	Initial hospital care	2.61	NA	NA	0.99	0.82	0.15	XXX
99223		A	Initial hospital care	3.86	NA	NA	1.45	1.20	0.20	XXX
99304		A	Nursing facility care, init	1.64	0.77	0.62	0.77	0.62	0.10	XXX
99305		A	Nursing facility care, init	2.35	1.05	0.82	1.05	0.82	0.14	XXX

CPT ¹ / HCPCS	Mod	Status	Description	Physician Work RVUs ²	Fully Imple- mented Non- Facility PE RVUs ²	Year 2010 Transi- tional Non- Facility PE RVUs ²	Fully Imple- mented Facility PE RVUs ²	Year 2010 Transi- tional Facility PE RVUs ²	Mal- Practice RVUs ²	Global
99306		A	Nursing facility care, init	3.06	1.30	1.01	1.30	1.01	0.16	XXX
G0252	26	N	PET imaging initial dx	1.50	0.55	0.60	0.55	0.60	0.08	XXX
G0341		A	Percutaneous islet celltrans	6.98	45.38	14.46	NA	NA	0.35	000
G0425		A	Inpt telehealth consult 30m	1.92	NA	NA	0.71	0.71	0.13	XXX
G0426		A	Inpt telehealth consult 50 m	2.61	NA	NA	0.99	0.99	0.15	XXX
G0427		A	Inpt telehealth consult 70/>m	3.86	NA	NA	1.45	1.45	0.20	XXX

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² If values are reflected for codes not payable by Medicare, please note that these values have been established as a courtesy to the general public and are not used for Medicare payment.

³ Work RVUs reflect increases for 10 and 90 day global period codes as a result of the elimination of the consultation codes.

⁴ The budget neutrality reduction from the chiropractic demonstration is not reflected in the RVUs for CPT codes 98940, 98941, and 98942. The required reduction will only be reflected in the files used for Medicare payment.

2. On pages 62145 and 62146, in Addendum C: Codes with Interim

RVUs, the following CPT codes are corrected to read as follows:

CPT ¹ / HCPCS	Mod	Status	Description	Physician Work RVUs ²	Fully Imple- mented Non- Facility PE RVUs ²	Year 2010 Transi- tional Non- Facility PE RVUs ²	Fully Imple- mented Facility PE RVUs ²	Year 2010 Transi- tional Facility PE RVUs ²	Mal- Practice RVUs ²	Global
51729	26	A	Cystometrogram w/vp&up	2.51	0.88	0.88	0.88	0.88	0.13	000
75565	26	A	Card mri vel flw map add-on	0.25	0.09	0.09	0.09	0.09	0.01	ZZZ
94011		A	Up to 2 yrs old, spirometry	2.00	NA	NA	0.62	0.62	0.05	XXX
94012		A	= 2 yrs, spirometry w/dilator	3.10	NA	NA	0.93	0.93	0.08	XXX
94013		A	= 2 yrs, lung volumes	0.66	NA	NA	0.18	0.18	0.03	XXX

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⁴ The budget neutrality reduction from the chiropractic demonstration is not reflected in the RVUs for CPT codes 98940, 98941, and 98942. The required reduction will only be reflected in the files used for Medicare payment.

BILLING CODE 4120-01-C

IV. 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 the 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 for it in the rule.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication. 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.

This document merely corrects typographical and technical errors made in FR Doc. E9-26502, the CY 2010 PFS final rule with comment period, which appeared in the November 25, 2009 **Federal Register** (74 FR 61738), and is (with limited exceptions not relevant to these corrections, but noted in the rule),

effective January 1, 2010. The provisions of the final rule with comment period have been subjected previously to notice and comment procedures. The corrections contained in this document are consistent with, and do not make substantive changes to, the payment methodologies and policies adopted in the CY 2010 PFS final rule with comment period. As such, these corrections are being made to ensure the CY 2010 PFS final rule with comment period accurately reflects the policies adopted in that rule. We find, therefore, for good cause that it is unnecessary and would be contrary to the public interest to undertake further notice and comment procedures to incorporate

these corrections into the CY 2010 PFS final rule with comment period.

For the same reasons, we are also waiving the 30-day delay in effective date for these corrections. We believe that it is in the public interest to ensure that the CY 2010 PFS final rule with comment period accurately states our policies as of the date they take effect. Therefore, we find that delaying the effective date of these corrections beyond the effective date of the final rule with comment period would be contrary to the public interest. In so doing, we find good cause to waive the 30-day delay in the effective date.

Authority: Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program.

Dated: December 3, 2009.

Dawn L. Smalls,
Executive Secretary to the Department.
[FR Doc. E9–29256 Filed 12–7–09; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–2008–0136, Notice No. 1]

RIN 2130–ZA02

Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2010

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule increases the rail equipment accident/incident reporting threshold from \$8,900 to \$9,200 for certain railroad accidents/incidents involving property damage that occur during calendar year 2010. This action is needed to ensure that FRA’s reporting requirements reflect cost increases that have occurred since the reporting threshold was last computed in December of 2008.

DATES: This regulation is effective January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Arnel B. Rivera, Staff Director, U.S. Department of Transportation, Federal Railroad Administration, Office of Safety Analysis, RRS–22, Mail Stop 25, West Building 3rd Floor, Room W33–306, 1200 New Jersey Ave., SE., Washington, DC 20590 (telephone 202–493–1331); or Gahan Christenson, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–10, Mail Stop 10, West Building 3rd Floor, Room W31–204, 1200 New Jersey Ave., SE., Washington, DC 20590 (telephone 202–493–1381).

SUPPLEMENTARY INFORMATION:

Background

A “rail equipment accident/incident” is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that results in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor

costs and the costs for acquiring new equipment and material, greater than the reporting threshold for the year in which the event occurs. 49 CFR 225.19(c). Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b) and (c). As revised, effective in 1997, paragraphs (c) and (e) of 49 CFR 225.19 provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225 to reflect any cost increases or decreases.

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was revised. 73 FR 78657 (December 23, 2008). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of \$8,900, which applies to rail equipment accidents/incidents that occur during calendar year 2009, should increase by \$300 to \$9,200 for equipment accidents/incidents occurring during calendar year 2010, effective January 1, 2010. The specific inputs to the equation set forth in appendix B (i.e., $T_{new} = T_{prior} * [1 + 0.4(W_{new} - W_{prior})/W_{prior} + 0.6(E_{new} - E_{prior})/100]$) to part 225 are:

T_{prior}	W_{new}	W_{prior}	E_{new}	E_{prior}
\$8,900	\$24.04379	\$22.86094	182.03333	180.16667

Where: T_{new} = New threshold; T_{prior} = Prior threshold (with reference to the threshold, “prior” refers to the previous threshold rounded to the nearest \$100, as reported in the **Federal Register**); W_{new} = New average hourly wage rate, in dollars; W_{prior} = Prior average hourly wage rate, in dollars; E_{new} = New equipment average PPI value; E_{prior} = Prior equipment average PPI value. Using the above figures, the calculated new threshold, (T_{new}) is \$9,183.88, which is rounded to the nearest \$100 for a final new reporting threshold of \$9,200.

Notice and Comment Procedures and Effective Date

In this rule, FRA has recalculated the monetary reporting threshold based on

the formula discussed in detail and adopted, after notice and comment, in the final rule published December 20, 2005, 70 FR 75414. FRA has found that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA has found that this rule imposes no additional burden on any person, but rather provides a benefit by permitting the valid comparison of accident data over time. Accordingly, finding that notice and comment procedures are either impracticable, unnecessary, or contrary to the public interest, FRA is proceeding directly to the final rule.

FRA regularly recalculates the monetary reporting threshold using a

pre-existing formula near the end of each calendar year. Therefore, any person affected by this rule anticipates the on-going adjustment of the threshold and has reasonable time to make any minor changes necessary to come into compliance with the regulations. FRA attempts to use the most recent data available to calculate the updated reporting threshold prior to the next calendar year. FRA has found that issuing the rule in December of each calendar year and making the rule effective on January 1, of the next year, allows FRA to use the most up-to-date data when calculating the reporting threshold and to compile data that accurately reflects rising wages and equipment costs. As such, FRA has