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Fiscal Year 2025 Medicare Hospital Inpatient Prospective Payment System and Long-Term Care Hospital Prospective Payment System Interim Final Rule Summary

On October 3, 2024, the Centers for Medicare & Medicaid Services (CMS) published an interim final rule with comment (IFC) in the *Federal Register* revising its previously announced federal fiscal year (FY) 2025 policies and rates for Medicare's hospital inpatient prospective payment system (IPPS) and the long-term care hospital (LTCH) prospective payment system (PPS). **The public comment period ends on November 29, 2024.**

The payment rates and policies described in the IPPS/LTCH final rule with comment (CMS-1808-IFC) reflect an update to CMS' previous FY 2025 IPPS/LTCH final rule published on August 28, 2024. The new payment rates and policies reflect a change to CMS' low wage index policy in response to a D.C. Circuit Court decision on July 23, 2024, that held that the Secretary lacked authority to adopt the low wage index hospital policy and related budget neutrality adjustment. The Circuit Court vacated CMS' policy for FY 2020.

In this IFC, CMS is:

1) Eliminating the low wage index policy and associated budget neutrality adjustments from the calculation of the FY 2025 IPPS/LTCH rates,
2) Establishing a transitional cap of 5 percent on reductions in the wage index in FY 2025 relative to FY 2024 for hospitals that benefited from the low wage index policy,
3) Not applying budget neutrality for the 5 percent cap on reduction in the wage index for hospitals that benefited from the low wage index policy, and
4) Recalculating IPPS and LTCH rates to reflect the updated wage index policies.

Data files to support analysis of the final rule are available at: https://www.cms.gov/medicare/payment/prospective-payment-systems/acute-inpatient-pps/fy-2025-ipps-final-rule-home-page#rule.

I. Background

For FY 2020, CMS adopted a low-wage index policy where it increased wage indexes below the 25th percentile by one-half the difference between the hospital's otherwise applicable wage index and the 25th percentile wage index value. CMS applied a budget neutrality adjustment for the low wage index policy such that increasing the wage index for the affected hospitals did not increase Medicare spending. This policy has been in place in every year since FY 2020.

The low wage index hospital policy and the related budget neutrality adjustment have been the subject of litigation, including in *Bridgeport Hospital, et al., v. Becerra (Bridgeport)*. The district court in *Bridgeport* held that the Secretary did not have authority to adopt the low wage index hospital policy. On July 23, 2024, D.C. Circuit Court held that the Secretary lacked authority to adopt the low wage index hospital policy and related budget neutrality adjustment. The Circuit

Court vacated CMS' policy for FY 2020. As of the date of the original FY 2025 IPPS/LTCH rule final rule publication, the time to seek further review of the D.C. Circuit's decision in *Bridgeport* had not expired. CMS indicated its intent to evaluate the Circuit Court decision and consider options for next steps. In the interim, CMS finalized its proposal to continue the low wage index policy in FY 2025.

II. Provisions of the FY 2025 IPPS/LTCH IFC

A. Removal of the Low Wage Index Policy and Cap on Wage Index Reductions

In this IFC, CMS is recalculating the IPPS hospital wage index to remove the low wage index hospital policy for FY 2025. Because CMS is no longer applying the low wage index hospital policy in FY 2025, it is also removing the low wage index budget neutrality factor from the FY 2025 standardized amounts.

In the FY 2023 IPPS rule, CMS adopted a 5 percent cap on year-to-year decreases in a hospital's wage index regardless of the circumstances causing the decline. CMS will limit the decrease in the wage index for hospitals that will no longer benefit from the low wage index hospital to 5 percent consistent with the policy it adopted beginning in FY 2023. However, CMS will not make that policy budget neutral as it does when other hospitals benefit from the 5 percent cap on decreases to the wage index.

CMS asserts that because section 1886(d)(5)(I) of the Act lacks any general budget neutrality requirement, it is not required by statute to—but it may—make the wage index being applied under this authority budget neutral. Not applying budget neutrality in this circumstance is appropriate according to CMS because of the unique circumstances of the *Bridgeport* and due to the timing of the appellate court's decision so close to the beginning of FY 2025. In this instance, the lack of an opportunity prior to the effective date for interested parties to comment on the transition policy weighs in favor of an approach that does not adversely affect most hospitals.

B. Impact on Budget Neutrality Adjustments

CMS applies budget neutrality adjustments in the following order for:

1) Changes to MS-DRGs and relative weights,
2) 10 percent cap on reductions to MS-DRG relative weights,
3) Changes to the wage index,
4) Geographic reclassification,
5) Low wage index policy,
6) 5 percent cap on the wage index reductions,
7) Outliers, and
8) Rural community hospital demonstration.

In a correction notice published a week earlier than this IFC, CMS changed some of the budget neutrality factors slightly relative to the original FY 2025 IPPS/LTCH rule published on August 28, 2024. Budget neutrality factors for the first four of these factors and the outlier adjustment did not change further from the correction notice to this IFC.

The low wage index policy budget neutrality adjustment changes from -0.28 percent (0.9997156) to 0.0 percent (1.000). The budget neutrality adjustment for the 5 percent cap on wage indexes will change marginally from -0.999179 to 0.999166 (still rounds to -0.08 percent). CMS indicates the rural community hospital demonstration budget neutrality does not change when rounded to the 6th decimal place.

C. Outlier Payments

In the FY 2025 IPPS rule published on August 28, 2024, CMS determined an outlier threshold of $46,152. In this IFC, CMS determined an outlier threshold of $46,217 using the same charge inflation factor, cost-to-charge ratio adjustment and reconciliation factors. CMS estimates that 5.1 percent operating payments will be paid as outliers and will continue to apply an outlier adjustment of 0.949 (-5.1 percent) for budget neutrality. The budget neutrality adjustment for capital outliers will change from 0.95738 (-4.26 percent) to 0.957704 (-4.23 percent).

D. Standardized Amounts

The revised standardized amounts are shown in the table below. For hospitals that receive the full update of 2.9 percent, these amounts are $17.88 in total larger than the amounts than were previously determined based on the August 28, 2024, IPPS final rule. The capital standardized amount goes from $510.51 in the August 28, 2024, IPPS final rule to $512.14 in this IFC based on revisions to the capital geographic adjustment factor and related budget neutrality adjustments.

STANDARDIZED AMOUNTS for FY 2025

	Full Update=2.9%	Reduced Update Failed IQR = 2.05%	Reduced Update Failed EHR =0.35%	Reduced Update Failed IQR and EHR = -0.5%
Wage Index >1.0				
Labor (67.6%)	$4,478.09	$4,441.10	$4,367.12	$4,330.13
Non-Labor (32.4%)	$2,146.30	$2,128.57	$2,093.11	$2,075.38
Wage Index <=1.0				
Labor (62%)	$4,107.12	$4,073.20	$4,005.34	$3,971.42
Non-Labor (38%)	$2,517.27	$2,496.47	$2,454.89	$2,434.09
National Capital Rate (All Hospitals)	$512.14			

D. High-Cost Outlier (HCO) Threshold for Site Neutral Cases under the LTCH PPS

Since FY 2016, LTCHs have been paid under a dual-rate payment structure. An LTCH case is either paid at the "LTCH PPS standard federal payment" when the criteria for site neutral payment rate exclusion are met or a "site neutral payment rate" when the criteria are not met. Site neutral cases are paid an IPPS comparable amount.

The applicable HCO threshold for site neutral payment rate cases for FY 2025 is the sum of the site neutral payment rate for the case and the IPPS fixed-loss amount. As the IPPS fixed-loss

amount is changing because of the provisions of this IFC, the applicable HCO threshold for site neutral cases will also change, increasing from $46,152 to $46,217.

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

CMS is waiving the requirements to go through notice and comment rulemaking under the Administrative Procedure Act (APA) and providing a 60-day public comment period under section 1871 of the Social Security Act (the Act) before a rule goes into effect. In addition, CMS is waiving requirements under both the APA and the section 1871 of the Act to provide for a 30-day delay in effective date after publication of a rule. These laws provide that an agency may dispense with normal rulemaking requirements and the 30-day delay in the effective for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest.

There was a limited amount of time between July 23, 2024, when *Bridgeport* was decided, and the beginning of FY 2025 on October 1, 2024, that constrained CMS' ability to revise policies already included in the FY 2025 IPPS final rule. Consequently, CMS continued with the FY 2025 IPPS final rule while it considered its options in response to the decision in *Bridgeport.* CMS considered that if the FY 2025 IPPS (and certain LTCH PPS) payment rates including the FY 2025 low wage index hospital policy were to go into effect on October 1, 2024, further litigation would unnecessarily change FY 2025 payments retroactively for all IPPS and LTCH PPS hospitals and lead to CMS having to reprocess FY 2025 claims.

This would constitute an inefficient use of limited agency resources. Removing the FY 2025 low wage index hospital policy and associated budget neutrality adjustment through an IFC rather than through the notice and comment rulemaking cycle and waiving the delay of the effective date will allow these changes to be applied to FY 2025 IPPS payment rates (and certain LTCH PPS rates) at the beginning of the fiscal year on October 1, 2025, avoiding these issues.

Therefore, CMS finds good cause to waive the notice of proposed rulemaking requirements as well as the delay of the effective date and to issue this final rule on an interim basis. Even though this rule will go into effect on an interim final basis, CMS is still providing a 60-day public comment period.

IV. Tables

There is a hyperlink at the beginning of this summary to tables that CMS makes available to support analysis of this IFC. CMS indicates tables with revisions because of this IFC include Table 2 (Final Case-Mix Index and Wage Index Table by CCN), Table 3 (Final Wage Index Table by CBSA) and Table 18 (Medicare DSH Uncompensated Care Payment Factor 3.) Given the very narrowly targeted update to the information used in the calculation of Factor 3, the change to the previously calculated Factor 3 is of limited magnitude for most hospitals.

V. Impacts

CMS' impact table excerpted below shows the final impacts of all FY 2025 changes relative to FY 2024 including the correction notice but excluding this IFC in column 3. Column 4 shows the final impact of all changes in FY 2025 relative to FY 2024 including the correction notice and including this IFC. Column 5 shows the residual or net effect of this IFC.

Table 1—Impact Analysis: FY 2025 Operating IPPS

(1)	(2) Number of Hospitals	(3) All FY 2025 changes—final rule as corrected[1]	(4) All FY 2025 changes—IFC [1]	(5) Overall impact of removing low wage index hospital policy with the transitional exception policy applied for FY 2025 [2]
All Hospitals	3,083	2.8	2.8	0.0
By Geographic Location:				
Urban hospitals	2,392	2.8	2.9	0.1
Rural hospitals	691	2.6	2.2	-0.4
Bed Size (Urban):				
0-99 beds	645	1.1	1.1	0.0
100-199 beds	682	2.6	2.6	0.0
200-299 beds	421	2.8	2.8	0.0
300-499 beds	394	2.7	2.8	0.1
500 or more beds	248	3.2	3.2	0.0
Bed Size (Rural):				
0-49 beds	341	1.6	1.2	-0.4
50-99 beds	183	1.4	1.3	-0.1
100-149 beds	91	2.8	2.6	-0.2
150-199 beds	44	3.5	2.7	-0.8
200 or more beds	32	3.8	3.7	-0.1
Urban by Region:				
New England	106	4.2	4.4	0.2
Middle Atlantic	280	1.1	1.3	0.2
East North Central	367	4.6	4.8	0.2
West North Central	156	2.7	2.6	-0.1
South Atlantic	396	4.4	4.4	0.0
East South Central	142	4.7	3.3	--.4
West South Central	358	3.7	3.6	-0.1
Mountain	179	2.4	2.6	0.2
Pacific	356	0.1	0.3	0.2
Rural by Region:				
New England	21	2.2	2.4	0.2
Middle Atlantic	52	4.4	4.6	0.2
East North Central	110	2.1	2.1	0.0
West North Central	78	2.0	1.9	-0.1
South Atlantic	112	1.6	1.3	-0.3
East South Central	132	3.6	1.8	-1.8
West South Central	120	3.1	2.5	-0.6
Mountain	42	2.5	2.5	0.0
Pacific	24	1.5	1.6	0.1
Puerto Rico				
Puerto Rico Hospitals	52	2.3	-0.5	-2.8
By Payment Classification:				
Urban hospitals	1,714	2.4	2.4	0.0
Rural areas	1,369	3.1	3.1	0.0
Teaching Status:				
Nonteaching	1,833	2.3	2.3	0.0
Fewer than 100 residents	958	2.9	2.9	0.0
100 or more residents	292	3.0	3.1	0.1
Urban DSH:	..		.	

(1)	(2) Number of Hospitals	(3) All FY 2025 changes—final rule as corrected[1]	(4) All FY 2025 changes—IFC [1]	(5) Overall impact of removing low wage index hospital policy with the transitional exception policy applied for FY 2025 [2]
Non-DSH	331	2.6	2.6	0.0
100 or more beds	1,015	2.4	2.4	0.0
Less than 100 beds	368	2.4	2.4	0.0
Rural DSH:				
Non-DSH	83	2.0	2.1	0.1
SCH	243	2.9	2.8	-0.1
RRC	791	3.2	3.2	0.0
100 or more beds	39	4.0	4.1	0.1
Less than 100 beds	213	-1.8	-2.6	-0.8
Urban teaching and DSH:				
Both teaching and DSH	581	2.4	2.4	0.0
Teaching and no DSH	52	2.1	2.2	0.1
No teaching and DSH	802	2.4	2.4	0.0
Special Hospital Types:				
RRC	155	3.0	2.8	-0.2
RRC with Section 401 Reclassification	579	3.3	3.3	0.0
SCH	245	2.6	2.5	-0.1
SCH with Section 401 Reclassification	34	3.1	3.1	0.0
SCH and RRC	119	2.8	2.6	-0.2
SCH and RRC with Section 401 Reclassification	46	2.7	2.7	0.0
Type of Ownership:				
Voluntary	1,907	2.7	2.8	0.1
Proprietary	755	3.2	3.3	0.1
Government	420	2.6	2.4	-0.2
Medicare Utilization as a Percent of Inpatient Days:				
0-25	1,362	2.9	3.0	0.1
25-50	1,616	2.7	2.7	0.0
50-65	65	1.1	1.2	0.1
Over 65	16	0.0	-1.0	-1.0
Medicaid Utilization as a Percent of Inpatient Days:				
0-25	1,911	2.8	2.9	0.1
25-50	1,044	2.8	2.9	0.1
50-65	99	1.1	1.3	0.2
Over 65	29	0.8	0.9	0.1
FY 2025 Reclassifications:				
All Reclassified Hospitals	1,061	3.1	3.1	0.0
Non-Reclassified Hospitals	2,022	2.5	2.5	0.0
Urban Hospitals Reclassified	902	3.1	3.1	0.0
Urban Non-reclassified Hospitals	1,501	2.4	2.5	0.1
Rural Hospitals Reclassified Full Year	281	2.9	2.6	-0.3
Rural Non-reclassified Hospitals Full Year	399	2.1	1.8	-0.3
All Section 401 Reclassified Hospitals:	729	3.2	3.2	0.0
Other Reclassified Hospitals (Section 1886(d)(8)(B))	51	1.9	1.8	-0.1

[1] Percent change in estimated payments from FY 2024 to FY 2025.
[2] Calculated as (1 plus (the Column B value/100)) divided by (1 plus the (Column A value/100)), minus 1, multiplied by 100