

county in which the hospitals are located meets the standards for redesignation to an MSA or an NECMA as an outlying county that were published in the FEDERAL REGISTER on March 30, 1990 (55 FR 12154) using Bureau of the Census data or Bureau of Census estimates made after 1990.

(c) *Wage criteria.* In applying the following numeric criteria, rounding of numbers to meet the qualifying percentages is not permitted.

(1) *Aggregate hourly wage.* The aggregate average hourly wage for all hospitals in the rural county must be equal to at least 85 percent of the average hourly wage in the adjacent urban area; or

(2) *Aggregate hourly wage weighted for occupational mix.* For redesignations effective before fiscal year 1999, the aggregate hourly wage for all hospitals in the rural county, weighted for occupational categories, is at least 90 percent of the average hourly wage in the adjacent urban area.

(d) *Appropriate data.* (1) *Metropolitan character.* (i) To meet the criteria in paragraph (b) of this section, the hospitals may submit data, estimates, or projections, made by the Bureau of the Census concerning population density or growth, or changes in designation of urban areas.

(ii) The MGCRB only considers data developed by the Bureau of the Census.

(2) *Appropriate wage data.* The hospitals must submit appropriate data as follows:

(i) For hospital-specific data, the hospitals must provide data from the HCFA wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(ii) For data for other hospitals, the hospitals must provide the following:

(A) The average hourly wage in the adjacent area, which is taken from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(B) Occupational-mix data to demonstrate the average occupational mix for each employment category in the

adjacent area. Occupational-mix data can be obtained from surveys conducted by the American Hospital Association.

[55 FR 36766, Sept. 6, 1990, as amended at 57 FR 39826, Sept. 1, 1992; 58 FR 46339, Sept. 1, 1993; 59 FR 45399, Sept. 1, 1994; 60 FR 45849, Sept. 1, 1995; 62 FR 46031, Aug. 29, 1997]

**§ 412.234 Criteria for all hospitals in an urban county seeking redesignation to another urban area.**

(a) *General criteria.* For all prospective payment hospitals in an urban county to be redesignated to another urban area, the following conditions must be met:

(1) All hospitals in an urban county must apply for redesignation as a group.

(2) The county in which the hospitals are located must be adjacent to the urban area to which they seek redesignation.

(3) The county in which the hospitals are located must be part of the Consolidated Metropolitan Statistical Area (CMSA) that includes the urban area to which they seek redesignation.

(4) The hospitals may be redesignated only if one of the following conditions is met.

(i) The pre-reclassified average hourly wage for the area to which they seek redesignation is higher than the pre-reclassified average hourly wage for the area in which they are currently located.

(ii) The standardized amount for the area to which they seek redesignation is higher than the standardized amount for the area in which they are currently located.

(b) *Wage criteria.* In applying the following numeric criteria, rounding of numbers to meet the qualifying percentages is not permitted.

(1) *Aggregate hourly wage.* The aggregate average hourly wage of all hospitals in the urban county must be at least 85 percent of the average hospital hourly wage in the MSA or NECMA to which the hospitals in the county seek reclassification; or

(2) *Aggregate hourly wage weighted for occupational mix.* For redesignations effective before fiscal year 1999, the aggregate average hourly wage for all hospitals in the county, weighted for

## §412.236

occupational categories, is at least 90 percent of the average hourly wage in the adjacent urban area.

(c) *Standardized amount inpatient operating costs*—(1) *Criteria*. The urban hospitals must demonstrate that their average incurred costs are more comparable to the amount the hospitals would be paid if they were reclassified than the amount they would be paid under their current classification.

(2) *Demonstrating comparable costs*. The urban hospitals demonstrate that their costs are more comparable to the average amount they would be paid if they were reclassified if, on average, each hospital's case-mix adjusted cost per case is at least equal to the amount it would be paid under its current classification plus 75 percent of the difference between that amount and the amount the hospital would receive if it were reclassified.

(d) *Appropriate data*. (1) *Wage data*. The hospitals must submit appropriate wage data as provided for in §412.230(e)(2).

(2) *Cost data*. The hospitals must submit appropriate data as provided for in §412.230(d)(3).

[56 FR 25488, June 4, 1991, as amended at 57 FR 39826, Sept. 1, 1992; 58 FR 46339, Sept. 1, 1993; 60 FR 45849, Sept. 1, 1995; 62 FR 46031, Aug. 29, 1997]

## §412.236 Alternative criteria for hospitals located in an NECMA.

(a) *General*. (1) An urban hospital whose designation is affected by the implementation of NECMAs may qualify for redesignation by meeting either the criteria in §412.230 or the criterion in paragraph (b) of this section.

(2) All the hospitals in a NECMA may qualify for redesignation by meeting the criteria in either §412.234 or in paragraph (c) of this section.

(b) *Criterion applicable to an individual urban hospital in a NECMA*. The hospital demonstrates that it would have been designated in a different urban area under the criteria for designating MSAs in New England.

(c) *Criteria applicable to a group of hospitals in a NECMA*. (1) All prospective payment hospitals in a NECMA must apply for redesignation.

(2) The hospitals must demonstrate that the NECMA to which they are des-

## 42 CFR Ch. IV (10-1-99 Edition)

ignated would be combined as part of the NECMA to which they seek redesignation if the criteria for combining NECMAs were the same as the criteria used for combining MSAs.

(d) *Appropriate data*. (1) The MGCRB only considers population and commuting data developed by the Bureau of the Census.

(2) To meet the criterion in paragraph (b) of this section or the criteria in paragraph (c) of this section, hospitals must submit data from the Bureau of the Census.

[55 FR 36766, Sept. 6, 1990. Redesignated and amended at 56 FR 25488, June 4, 1991]

### COMPOSITION AND PROCEDURES

## §412.246 MGCRB members.

(a) *Composition*. The Medicare Geographical Classification Review Board (MGCRB) consists of five members, including a Chairman, all of whom are appointed by the Secretary. The members include two members who are representative of prospective payment system hospitals located in rural areas, and at least one individual who is knowledgeable in analyzing the costs of inpatient hospital services.

(b) *Term of office*. The term of office for an MGCRB member may not exceed 3 years. A member may serve more than one term. The Secretary may terminate a member's tenure prior to its full term.

[55 FR 36766, Sept. 6, 1990, as amended at 61 FR 46224, Aug. 30, 1996; 61 FR 51217, Oct. 1, 1996]

## §412.248 Number of members needed for a decision or a hearing.

(a) *A quorum*. A quorum, consisting of at least a majority of the MGCRB members, one of whom is representative of rural hospitals if possible, is required for making MGCRB decisions.

(b) *Number of members for a hearing*. If less than a quorum is present for an oral hearing, the chairman with the consent of the hospital may allow those members present to conduct the hearing and to prepare a recommended decision, which is then submitted to a quorum.