

appeal HRSA's eligible adverse determinations would be entitled to appeal such determinations directly to the Departmental Appeals Board.

We announced our plans to amend the current regulations in a notice of proposed rulemaking (NPRM) published in the **Federal Register**, June 7, 2005 (70 FR 33053–33054). The NPRM provide for a sixty-day comment period. We received no comments. Consequently, the final rule is the same as the proposed rule published in June of this year.

We provide the following information for the public.

#### Executive Order 12866

Executive Order (EO) 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits. We have determined that the rule is not a significant regulatory action under Section 3(f) of the EO and does not require an assessment of the potential costs and benefits under section 6(a)(3) of that EO. Under the EO, the Office of Management and Budget (OMB) has exempted it from review.

#### Regulatory Flexibility

The Regulatory Flexibility Act (5 U.S.C. Chapter 6) requires that regulatory actions be analyzed to determine whether they will have a significant impact on a substantial number of small entities. We have determined that this is not a "major" rule under this Act and therefore does not require a regulatory flexibility analysis.

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by States, local or tribal governments, or by the private sector of \$100 million or more in any given year. This rule does not have cost implications for the economy of \$100 million or more, nor otherwise meet the criteria for a major rule under Executive Order 12291, and therefore does not require a regulation impact analysis.

#### Executive Order 13132

Executive Order 13132 requires that Federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. We received no comments.

#### Executive Order 13175

Executive Order 13175 requires the Department to develop an accountable process to ensure A meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." We received no comments.

#### Paperwork Reduction Act

There are no new paperwork requirements subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1995.

#### List of Subjects in 42 CFR Part 50

Administrative practice and procedure, Grant programs—health, Health care.

Dated: October 11, 2005.

**Elizabeth M. Duke,**

*Administrator, Health Resources and Services Administration.*

Approved: December 14, 2005.

**Michael O. Leavitt,**

*Secretary of Health and Human Services.*

■ Accordingly, HRSA amends 42 CFR part 50 as follows:

#### PART 50—[AMENDED]

##### Subpart D—Public Health Service Grant Appeals Procedure

■ 1. The authority citation for part 50, subpart D, continues to read as follows:

**Authority:** Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3 (c).

■ 2. Section 50.402 is revised to read as follows:

##### **§ 50.402 To what program do these regulations apply?**

This subpart applies to all grant and cooperative agreement programs, except block grants, which are administered by the National Institutes of Health; The Centers for Disease Control and Prevention; the Agency for Toxic Substances and Disease Registry; the Food and Drug Administration; and the Office of Public Health and Science. For purposes of this subpart, these entities are hereinafter referred to as "agencies."

[FR Doc. 05–24442 Filed 12–22–05; 8:45 am]

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Medicare & Medicaid Services

#### 42 CFR Part 418

[CMS–1286–CN2]

RIN 0938–AN89

#### Medicare Program; Hospice Wage Index for Fiscal Year 2006

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

**ACTION:** Final rule, correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 4, 2005, entitled "Hospice Wage Index for Fiscal Year 2006."

**EFFECTIVE DATE:** This notice is effective on October 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Terri Deutsch, (410) 786–9462.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 4, 2005, we published a final rule entitled, "Hospice Wage Index for Fiscal Year 2006 (**Federal Register** Doc. 05–15290, 70 FR 45130). On September 30, 2005, we published a correction notice (**Federal Register** Doc. 05–19609, 70 FR 57174) to correct a number of technical errors that had appeared in the final rule. Based on further review of the August 2005 final rule, we are correcting additional typographical and formatting errors that appeared in Table A and C of the addendum. Specifically, in Table A of the addendum, we are correcting the asterisk that corresponds to the footnotes that appear at the end of the table, as appropriate. We are correcting the wage index values for CBSA codes where the numerical numbers contained typographical errors or where numbers were transposed. In addition, in Table C of the addendum, we are correcting the wage index value figures for the CBSA code 24780, Pitt County, NC, and the CBSA code for 32820, Crittenden County, TN.

This correction notice is consistent with the published hospice wage index values used to make payment as of October 1, 2005. In section II below, we provide a description of the errors and the changes being made to correct the errors.

## II. Correction of Errors

In FR Doc. 05–15290, published on August 4, 2005 (70 FR 45130), we are making the following corrections:

### *Table A—Hospice Wage Index for Urban Areas by CBSA*

1. On page 45147, in the fourth column, in the 4th through 23rd entry, for CBSA code 12060, change the MSA code “520” to “0520”.

2. On page 45148, in the third column, in lines 37 through 39, for CBSA code 13980, remove the asterisk from the urban area county codes for “Montgomery, VA; Pulaski, VA; and Radford City, VA.”

3. On page 45149, in the first column, in the 10th entry, for CBSA code 6580, change the CBSA code “6580” to “16580.”

4. On page 45150—

A. In the fourth column, in the 15th entry, for CBSA code 17140, wage index 0.9207, urban area county code for Bracken, KY\*, change the MSA code “14” to “18.”

B. In the third column, in the 15th entry from the bottom, for CBSA code 17980, change the urban area county “Russell, AL,” to “Russell, AL\*.”

5. On page 45153—

A. In the fourth column, in the first entry, for CBSA code 22744, change the MSA code “2860” to “2680.”

B. In the third column, for CBSA code 23540 as previously corrected on September 30, 2005 (70 FR 57176) change the wage index number for Alachua, FL\* from “0.9642” to “1.0033” and the wage index number for “Gilchrist, FL\* from “1.0033” to “0.9642.”

C. In the second column, for CBSA code 24660, for urban area county code Randolph, NC\*, remove the wage index number “0.9382” and add the wage index number “0.9382” to the urban area county code “Rockingham, NC\*.”

6. On page 45160 as corrected on September 30, 2005 (70 FR 57176) in the second column—

A. In the second entry from the bottom, for the CBSA code 38540, change the wage index number for “Bannock, ID\*” from “0.9773” to “1.0183.”

B. In the first entry from the bottom, for the CBSA code 38540, change the wage index number for “Power, ID\*” from “1.0183” to “0.9773.”

### *Table C—Blended Hospice Wage Index Codes for Selected Areas*

1. On page 45177, in the 6th column, in the 20th line, for the county name of Stanly, NC, change the special hospice wage index code “50192” to “50092.”

2. On page 45188, in the 7th column, in the 25th line from the bottom, for the county name Pitt, NC, change the wage index number “0.09740” to “0.9740.”

3. On page 45190, in the 7th column, in the 27th line, for the county name, Crittenden, TN, change the wage index number “0.09785” to “0.9785.”

## III. Waiver of Proposed Rulemaking

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 this notice and comment procedure if the Secretary finds 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 therefore in the notice.

The revisions contained in this rule correct formatting and typographical errors in various sections of Table A and Table C of the addendum. These corrections are necessary to ensure that the final rule accurately reflects the correct hospice wage index values. Since they are not substantive, but merely technical, we find that public comments on these revisions are both unnecessary and impracticable. Therefore, we find good cause to waive notice and comment procedures.

In addition, the Administrative Procedure Act (APA) normally requires a 30-day delay in the effective date of a final rule. Since this notice simply makes technical modifications to a final rule that has previously gone through notice-and-comment rulemaking and the corrections are only to formatting errors, we believe good cause also exists under the APA to waive the 30-day delay in the effective date.

Section 1871(e)(1)(A) of the Act, as amended by section 903(a) of Pub. L. 108–173, provides that a substantive change in regulations shall not be applied retroactively to items and services furnished before the effective date of the change, unless the Secretary finds that such retroactive application is necessary to comply with statutory requirements or failure to apply the change retroactively would be contrary to the public interest. Although this correction notice is retroactive, it makes no substantive changes, but only corrects minor technical errors. Failure to make these changes retroactive to October 1, 2005, is contrary to the public interest because the published wage index values do not match the actual wage index values utilized by CMS as of October 1, 2005. Actual

payments made by CMS to hospice providers will not change. Therefore, we believe there is sufficient cause to make the corrections retroactive.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 12, 2005.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

[FR Doc. 05–24288 Filed 12–22–05; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 419 and 485

[CMS–1501–CN2]

RIN 0938–AN46

#### Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2006 Payment Rates; Correction

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

**ACTION:** Correction of final rule with comment period.

**SUMMARY:** This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on November 10, 2005 entitled “Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2006 Payment Rates; Final Rule.”

**EFFECTIVE DATE:** January 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Kane, (410) 786–0378.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 05–22136 (70 FR 68515), we have identified a number of technical errors that we have described in the “Summary of Errors” section and corrected in the “Correction of Errors” section below. The provisions in this correction notice are effective as if they had been included in the CY 2006 final rule with comment period. Accordingly, the corrections are effective January 1, 2006.

##### II. Summary of Errors

On November 10, 2005, we published the CY 2006 Hospital Outpatient Prospective Payment System (OPPS) final rule with comment period. Included in that document were several