

inadvertently omitted: Crambe, meal at 40.0 ppm; crambe, seed at 35.0 ppm; cuphea, seed at 35.0 ppm; echium, seed at 35.0 ppm; gold of pleasure, meal at 40.0 ppm; gold of pleasure, seed at 35.0 ppm; hare's ear mustard, seed at 35.0 ppm; lesquerella, seed at 35.0 ppm; lunaria, seed at 35.0 ppm; meadowfoam, seed at 35.0 ppm; milkweed, seed at 35.0 ppm; mustard, seed at 35.0 ppm; oil radish, seed at 35.0 ppm; poppy, seed at 35.0 ppm; sesame, seed at 35.0 ppm; and sweet rocket, seed at 35.0 ppm. (These oil seed commodity tolerances for sethoxydim were published in the **Federal Register** of July 9, 2008 (73 FR 39256) (FRL-8370-9). When EPA published the September 17, 2008 (73 FR 53732), final rule pertaining to sethoxydim tolerances for other commodities, the amendatory language in the final rule mistakenly omitted the tolerances finalized on July 9, 2008, rather than adding to them, as had been intended. EPA has not proposed revoking these tolerances. This technical amendment corrects that error).

### III. Why is this Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical amendment final without prior proposal and opportunity for comment, because the erroneous changes being corrected were the result of clerical error, and were neither proposed nor commented upon. Notice and comment is therefore unnecessary.

### IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This action only corrects typographical omissions and errors for a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive Orders for the underlying rule is discussed in Unit VI. of the final rule published September 17, 2008 (73 FR 53732).

### V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of

the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 22, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR part 180 is amended as follows:

### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.185 is amended by revising the entry for "Vegetable, brassica, leafy, group 5" in the table in paragraph (a) to read as follows:

#### § 180.185 DCPA; tolerances for residues.

(a) *General.* \* \* \*

Commodity	Parts per million
* * * * *	*
Vegetable, brassica, leafy, group 5 .....	5.0
* * * * *	*

■ 3. Section 180.412 is amended by alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

#### § 180.412 Sethoxydim; tolerances for residues.

(a) *General.* \* \* \*

Commodity	Parts per million
* * * * *	*
Crambe, meal .....	40.0
Crambe, seed .....	35.0
* * * * *	*
Cuphea, seed .....	35.0
* * * * *	*
Echium, seed .....	35.0
* * * * *	*
Gold of pleasure, meal .....	40.0
Gold of pleasure, seed .....	35.0
* * * * *	*
Hare's ear mustard, seed .....	35.0

Commodity	Parts per million
* * * * *	*
Lesquerella, seed .....	35.0
* * * * *	*
Lunaria, seed .....	35.0
Meadowfoam, seed .....	35.0
* * * * *	*
Milkweed, seed .....	35.0
Mustard, seed .....	35.0
* * * * *	*
Oil radish, seed .....	35.0
* * * * *	*
Poppy, seed .....	35.0
* * * * *	*
Sesame, seed .....	35.0
* * * * *	*
Sweet rocket, seed .....	35.0
* * * * *	*

\* \* \* \* \*

[FR Doc. E8-31010 Filed 12-30-08; 8:45 am]

BILLING CODE 6560-50-S

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Centers for Medicare & Medicaid Services

**42 CFR Parts 405, 409, 410, 411, 413, 414, 415, 423, 424, 485, 486, and 489**

[CMS-1403-CN2]

RIN 0938-AP18

#### Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2009; E-Prescribing Exemption for Computer Generated Facsimile Transmissions; Corrections

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

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

**SUMMARY:** This document corrects several technical and typographical errors in the final rule with comment period that appeared in the November 19, 2008 **Federal Register** entitled "Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2009; E-Prescribing Exemption for Computer-Generated Facsimile Transmissions; and Payment for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); Final Rule" (73 FR 69726).

**DATES:** *Effective Date:* This correction notice is effective January 1, 2009.

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

**SUPPLEMENTARY INFORMATION:**

## I. Background

In FR Doc. E8–26213 of November 19, 2008 (73 FR 69726) (hereinafter referred to as the CY 2009 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 2009 PFS final rule with comment period. Accordingly, the corrections are effective January 1, 2009.

## II. Summary of Errors

### A. Errors in the Preamble

On pages 69738 and 69739, we are correcting a typographical error in the discussion concerning submission of information for supply and equipment items. In addition, in Table 2, we are correcting the reference to a code number that appears in that table, as well as typographical errors that appear in the footnotes for Tables 2 and 3. We are also correcting the reference to two code numbers that appear in Table 5.

On pages 69764, 69765, 69801, 69856, 69867, 69868, and 69869, we are correcting typographical errors.

On page 69857, we are deleting a sentence which refers incorrectly to a revision to the regulation.

On page 69866, we are adding a footnote that was referenced but inadvertently not included.

On page 69899, we are adding CPT 78414 to our summary of deleted codes. This code does not involve imaging and, therefore, should not be included in the category of “Radiology and Certain Other Imaging Services.”

On page 69900, Table 30, we are adding two codes to the list of deletions. Under the heading of “Clinical Laboratory Services,” we are adding HCPCS code G0394 and its short descriptor because this code will be terminated December 31, 2008. Under the heading of “Radiology and Certain Other Imaging Services,” we are adding in numerical order CPT code 78414 and its short descriptor.

### B. Errors in the Regulations Text

The regulations text contained minor typographical and technical errors; therefore, we are not summarizing the individual errors in this section.

### C. Errors in the Addenda

On pages 69956, 70007, 70024, 70051, 70088, and 70122 of Addendum B, Relative Value Units and Related Information Used in Determining Medicare Payments for 2009, the PE RVUs listed for CPT codes 20697, 37205, 37206, 47525 and 76775–26 are

corrected. In addition the global periods for the CPT codes 47525, 63650, 63685, 63688, and 93352 are corrected.

On pages 70147, 70148, 70149 and 70151 of Addendum C, Codes with Interim RVUs, the PE RVUs listed for CPT code 26097 are corrected and the global period for CPT codes 47525, 63650, 63685, 63688, and 93352 are corrected.

On page 70215, Addendum J, we are deleting HCPCS code G0394 and its short descriptor.

On page 70226, Addendum J, we are deleting CPT 78414 and its short descriptor.

## III. Correction of Errors

### A. Corrections to the Preamble

#### 1. On page 69738:

a. In the 1st column, in the 1st partial paragraph, line 2, the phrase “items for some each of the” is corrected to read “items for some of the”.

b. In Table 2, Supply Items Needing Specialty Input for Pricing, in column 6, lines 1 and 2, the CPT code “50395” is corrected to read “50593”.

c. In the footnote to Table 2, line 5, the phrase “In these instances only” is corrected to read “In instances where only”.

#### 2. On page 69739:

a. In the footnote to Table 3, line 5, the phrase “In these instances only” is corrected to read “In instances where only”.

b. In the footnote to Table 3, line 15 (item B.), the phrase “No/insufficient received.” is corrected to read “No/Insufficient information received.”

c. In Table 5, in the 5th column, line 2, the CPT codes “93693 and 93696” are corrected to read “93293 and 93296”.

#### 3. On page 69764, in the 3rd column, 1st full paragraph:

a. Lines 1 and 2, the sentence “We disagree with the commenter.” is removed.

b. Line 5, the phrase “imaging services” is corrected to read “testing services.”

#### 4. On page 69765, in the 1st column:

a. In the 1st paragraph, line 2, the phrase “commenters’ concerns and we” is corrected to read “commenters’ concerns, but we.”

b. In the 5th paragraph, the phrase “commenters’ concerns and we” is corrected to read “commenters’ concerns, but we.”

5. On page 69801, in the 1st column, in the 2nd full paragraph, line 40, the phrase “PC be an employee or independent” is corrected to read “PC be an owner, employee, or independent”.

6. On page 69856, in the 2nd column, in the 1st partial paragraph, line 8, the

phrase “beneficiaries who’s OSA” is corrected to read “beneficiaries whose OSA”.

7. On page 69857, in the 1st column, in the 2nd full paragraph, lines 7 through 11, the sentence “In addition, we are adding a new paragraph (g), which would create an exception to the prohibition contained in (f) if the sleep test is an attended facility-based PSG.” is deleted.

#### 8. On page 69866, in the 3rd column:

a. In the 1st partial paragraph, line 12, the footnote annotation “2” is corrected to read “2A”.

b. In the footnotes, the following footnote is added in numerical order “<sup>2A</sup> Dartmouth Atlas of Healthcare. 2005 Medicare reimbursement figures derived from Hospital Service Area (HSA).”

9. On page 69867, in the 2nd column, in the 3rd full paragraph, lines 15 and 16, the phrase “high cost, of a high volume,” is corrected to read “high cost, high volume,”.

#### 10. On page 69868:

a. In the 2nd column, in the 1st partial paragraph, line 16, the phrase “approach to data for Phase 1,” is corrected to read “approach used for Phase 1,”.

b. In the 2nd column, in the 1st full paragraph, line 6, the phrase “high cost, a high volume,” is corrected to read “high cost, high volume,”.

c. In the 3rd column, in the 1st paragraph, lines 22 through 23, the phrase “data was available” is corrected to read “data were not available”.

#### 11. On page 69869, in the 1st column:

a. In the 1st partial paragraph, lines 7 through 8, the phrase “In addition, to including” is corrected to read “In addition to including”.

b. In the 2nd full paragraph, line 3, the phrase “ of the program as” is corrected to read “of the program, as”.

12. On page 69899, in the 3rd column, in the 3rd paragraph, lines 5 and 6, the phrase “CPT codes 78000, 78001, and 78003” is corrected to read “CPT codes 78000, 78001, 78003, and 78414”.

13. On page 69900, in the 1st column, Table 30: Deletions to the Physician Self-Referral List of CPT<sup>1</sup>/HCPCS Codes:

a. Under the heading of “Clinical Laboratory Services,” HCPCS code G0394 and its short descriptor are added as the last entry to read as follows:

#### CLINICAL LABORATORY SERVICES

G0394 .....	Blood occult test, colorectal.
-------------	--------------------------------

b. Under the heading of “Radiology and Certain Other Imaging Services,” CPT code 78414 and its short descriptor are added in numerical order to read as follows:

RADIOLOGY AND CERTAIN OTHER  
IMAGING SERVICES

78414 ..... Non-imaging heart function.

*B. Corrections to the Regulation Text*

1. On page 69933, in § 410.33:

a. In paragraph (g)(16), the phrase “imaging services” is corrected to read “testing services”.

b. In paragraph (g)(17), the phrase “part of a hospital service provided under arrangement with that hospital” is corrected to read “part of a service provided under arrangement as described in section 1861(w)(1) of the Act”.

2. On page 69934, in § 411.15, in paragraph (p)(2)(xii), the phrase “paragraphs (k)(15)(i) thorough (vi) of this section” is corrected to read

“subparagraphs (p)(2)(i) through (vi) of this section”.

3. On page 69936, in § 414.210, in amendatory instruction #26, the statement “E. Adding paragraph (e)(3)(iv).” is added in alphabetical order.

4. On page 69937, in § 414.904, amendatory instruction #31 is revised to read

“Section 414.904 is amended by—  
a. Revising paragraphs (b)(2), (c)(2), and (d)(3).

b. Adding paragraph (e)(5).

The revisions and addition read as follows:”.

5. On page 69938, in § 414.904:

a. In paragraph (e), the text “(1) \* \* \*” is removed.

b. Paragraph (e)(1)(i) is redesignated to (e)(5).

c. Paragraph (e)(1)(i)(A) is redesignated to (e)(5)(i).

d. Paragraph (e)(1)(i)(A)(1) is redesignated to (e)(5)(i)(A).

e. Paragraph (e)(1)(i)(A)(2) is redesignated to (e)(5)(i)(B).

f. Paragraph (e)(1)(i)(B) is redesignated to (e)(5)(ii).

g. Paragraph (e)(1)(i)(B)(1) is redesignated to (e)(5)(ii)(A).

h. Paragraph (e)(1)(i)(B)(2) is redesignated to (e)(5)(ii)(B).

6. On page 69940, in § 424.516, in paragraph (e)(1), the phrase “ownership, including” is corrected to read “ownership or control, including”.

*C. Corrections to the Addenda*

1. On pages 69956, 70007, 70024, 70051, 70088, and 70122, Addendum B: Relative Value Units and Related Information Used in Determining Medicare Payments for 2009, the following CPT codes are corrected to read as follows:

CPT <sup>1</sup> / HCPCS	Mod	Status	Description	Physi- cian work RVUs <sup>2</sup>	Fully imple- mented non- facility PE RVUs <sup>2</sup>	Year 2009 transi- tional non- facility PE RVUs <sup>2</sup>	Fully imple- mented facility PE RVUs <sup>2</sup>	Year 2009 transi- tional facility PE RVUs <sup>2</sup>	Mal- practice RVUs <sup>2</sup>	Global
20697 ..	.....	A	Comp ext fixate strut change ..	0.00	33.08	33.08	NA	NA	0.01	000
37205 ..	.....	A	Transcath iv stent, percut .....	8.27	105.15	105.15	3.35	3.46	0.60	000
37206 ..	.....	A	Transcath iv stent/perc addl .....	4.12	64.26	64.26	1.62	1.58	0.31	ZZZ
47525 ..	.....	A	Change bile duct catheter .....	1.54	10.90	11.98	0.86	1.35	0.33	000
63650 ..	.....	A	Implant neuroelectrodes .....	7.15	NA	NA	2.71	2.83	0.53	010
63685 ..	.....	A	Insrt/redu spine n generator ....	6.00	NA	NA	2.90	3.22	1.05	010
63688 ..	.....	A	Revise/remove neuroreceiver ..	5.25	NA	NA	2.88	3.05	0.89	010
76775 ..	26	A	Us exam abdo back wall, lim ..	0.58	0.23	0.23	0.23	0.23	0.03	XXX
93352 ..	.....	A	Admin ecg contrast agent .....	0.19	0.84	0.84	NA	NA	0.04	ZZZ

2. On pages 70147, 70148, 70149 and 70151, Addendum C: Codes with

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

CPT <sup>1</sup> / HCPCS	Mod	Status	Description	Physi- cian work RVUs <sup>2</sup>	Fully imple- mented non- facility PE RVUs <sup>2</sup>	Year 2009 transi- tional non- facility PE RVUs <sup>2</sup>	Fully imple- mented facility PE RVUs <sup>2</sup>	Year 2009 transi- tional facility PE RVUs <sup>2</sup>	Mal- practice RVUs <sup>2</sup>	Global
20697 ..	.....	A	Comp ext fixate strut change ..	0.00	33.08	33.08	NA	NA	0.01	000
47525 ..	.....	A	Change bile duct catheter .....	1.54	10.90	11.98	0.86	1.35	0.33	000
63650 ..	.....	A	Implant neuroelectrodes .....	7.15	NA	NA	2.71	2.83	0.53	010
63685 ..	.....	A	Insrt/redu spine n generator ....	6.00	NA	NA	2.90	3.22	1.05	010
63688 ..	.....	A	Revise/remove neuroreceiver ....	5.25	NA	NA	2.88	3.05	0.89	010
93352 ..	.....	A	Admin ecg contrast agent .....	0.19	0.84	0.84	NA	NA	0.04	ZZZ

3. On page 70215, in Addendum J, the entry for HCPCS code G0394 and its short descriptor are removed.

4. On page 70226, in Addendum J, the entry for CPT code 78414 and its short descriptor are removed.

**III. 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. E8-26213, the CY 2009 PFS final rule with comment period, which appeared in the November 19, 2009 **Federal Register** (73 FR 69726), and is (with limited exceptions not relevant to these corrections, but noted in the rule), effective January 1, 2009. 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 2009 PFS final rule with comment period. As such, these corrections are being made to ensure the CY 2009 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 2009 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 2009 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 22, 2008.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

[FR Doc. E8-31027 Filed 12-30-08; 8:45 am]

**BILLING CODE 4120-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 08-2722; MB Docket No. 08-100; RM-11437]

### Television Broadcasting Services; Columbus, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by WTVM

License Subsidiary, LLC, the permittee of post-transition station WTVM-DT, to substitute DTV channel 11 for post-transition DTV channel 9 at Columbus, Georgia.

**DATES:** This rule is effective January 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Shaun A. Maher, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-100, adopted December 17, 2008, and released December 18, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

### List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

### § 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Georgia, is amended by adding DTV channel 11 and removing DTV channel 9 at Columbus.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. E8-31005 Filed 12-30-08; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 08-2723; MB Docket No. 08-103; RM-11441]

### Television Broadcasting Services; Augusta, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by Media Holdings, Inc., permittee of station WFXG-DT, to substitute DTV channel 31 for its assigned post-transition DTV channel 51 at Augusta, Georgia.

**DATES:** This rule is effective January 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Shaun A. Maher, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-103, adopted December 17, 2008, and released December 18, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats