

publication on the recreation area website.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

42 CFR Parts 406, 407, 410, 411, 416, 419, 435, 440, 457, 482, and 485

[CMS–1809–F2]

RIN 0938–AV35

**Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs, Including the Hospital Inpatient Quality Reporting Program; Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals; Prior Authorization; Requests for Information; Medicaid and CHIP Continuous Eligibility; Medicaid Clinic Services Four Walls Exceptions; Individuals Currently or Formerly in Custody of Penal Authorities; Revision to Medicare Special Enrollment Period for Formerly Incarcerated Individuals; and All-Inclusive Rate Add-On Payment for High-Cost Drugs Provided by Indian Health Service and Tribal Facilities; Correcting Amendment**

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

**ACTION:** Final rule with comment period; correcting amendment.

**SUMMARY:** This document corrects technical and typographical errors in the final rule with comment period that appeared in the November 27, 2024 *Federal Register* titled “Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs, including the Hospital Inpatient Quality Reporting Program; Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals; Prior Authorization; Requests for Information; Medicaid and CHIP Continuous Eligibility; Medicaid Clinic Services Four Walls Exceptions; Individuals Currently or Formerly in Custody of Penal Authorities; Revision to Medicare

Special Enrollment Period for Formerly Incarcerated Individuals; and All-Inclusive Rate Add-On Payment for High-Cost Drugs Provided by Indian Health Service and Tribal Facilities”.

**DATES:** This correcting amendment is effective January 8, 2025, and is applicable beginning January 1, 2025.

**FOR FURTHER INFORMATION CONTACT:**

For OPPS/ASC related questions, contact Elise Barringer via email at *Elise.Barringer@cms.hhs.gov* or at (410) 786–9222.

For OPPS Addenda questions, contact Marina Kushnirova via email at *Marina.Kushnirova@cms.hhs.gov*.

For ASC Addenda questions, contact Scott Talaga via email at *Scott.Talaga@cms.hhs.gov*.

For Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals questions, contact the Clinical Standards Group via email at *HealthandSafetyInquiries@cms.hhs.gov*.

For Hospital Outpatient Quality Reporting Program policies, contact Kimberly Go via email at *Kimberly.Go@cms.hhs.gov* or Janis Grady via email at *Janis.Grady@cms.hhs.gov*.

For Medicaid Clinic Services Four Walls Exceptions related questions, contact Sheri Gaskins via email at *Sheri.Gaskins@cms.hhs.gov* or Ryan Tisdale via email at *Ryan.Tisdale@cms.hhs.gov*.

For Medicaid and CHIP Continuous Eligibility questions, contact Cassie Lagorio via email at *Cassandra.Lagorio@cms.hhs.gov*.

For New Technology APC questions, contact Nicole Marcos via email at *Nicole.Marcos@cms.hhs.gov*.

For Outpatient Department Prior Authorization Process, contact Kelly Wojciechowski via email at *Kelly.Wojciechowski@cms.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

In the FR Doc. 2024–25521 of November 27, 2024 (89 FR 93912), there were a number of technical and typographical errors that are identified and corrected in this correcting document. The corrections in this correcting document are effective as if they had been included in the document that appeared in the November 27, 2024 *Federal Register*. Accordingly, the corrections are effective January 1, 2025.

#### II. Summary of Errors

##### A. Summary of Errors in For Further Information Contact

In the **FOR FURTHER INFORMATION CONTACT** section, the email address for Kelly Wojciechowski is incorrect.

##### B. Summary of Errors in the Preamble

###### 1. Hospital Outpatient Prospective Payment System (OPPS) Corrections

On pages 94054 and 94055, we are correcting typographical errors. Specifically, we are correcting CPT code “0899T” to “0889T”.

On pages 94111 and 94114, we referred to an incorrect APC assignment for CPT code 15013. We inadvertently failed to account for the impact on the amount of payment for the skin cell suspension autograft procedure described by CPT code 15013 (*Preparation of skin cell suspension autograft, requiring enzymatic processing, manual mechanical disaggregation of skin cells, and filtration; first 25 sq cm or less of harvested skin*) of the assignment of this code to status indicator “T” (Procedure or Service, Multiple Procedure Reduction Applies; Paid under OPPS, separate APC payment) when we assigned CPT code 15013 to APC 1567 New Technology—Level 30 (\$6,001–\$6,500), which has a payment rate of \$6,250.50 and status indicator “T”.

In the final rule with comment period, we stated that when the full service (skin cell suspension autograft described by CPT codes 15011 through 15018) is performed, meaning that the harvesting (described by CPT code 15011), preparation (described by CPT code 15013), and application (described by CPT codes 15015 or 15017) steps are performed, the total cost for the service for CY 2025 would be approximately \$10,000. However, because of the effect of the multiple procedure reduction, the total payment for the skin cell suspension autograft furnished using the RECELL System would have been approximately \$8,000, contrary to the intended target of \$10,000 as stated in the CY 2025 OPPS/ASC final rule with comment period. To correct this error, we are assigning CPT code 15013 to APC 1532 New Technology—Level 32 (\$7,001–\$7,500), which has a payment rate of \$7,250.50 and status indicator “S” (Procedure or Service, Not Discounted When Multiple, Paid under OPPS; separate APC payment.).

On page 94120, we stated “We note that we will replace HCPCS code C9734 with CPT code 5X008 (55882) effective January 1, 2025, as well as assign the underlying claims associated with HCPCS code C9734 to CPT code 5X008 (55882).” While we intended to crosswalk the claims data for HCPCS code C9734 to CPT code 5X008 (55882) to determine the APC assignment for CPT code 5X008 (55882) for CY 2025, we did not intend to retire HCPCS code C9734 because, based on its descriptor,

C9734 can be used for services other than those described by CPT code 5X008 (55882). We are correcting this reference to indicate that we are using C9734 claims data to set the payment rate for CPT code 5X008 (55882) and removing the reference to replacing HCPCS code C9734. HCPCS code C9734 will remain assigned to APC 5115 (Level 5 Musculoskeletal Procedures).”

## 2. The Hospital Outpatient Quality Reporting (OQR), Rural Emergency Hospital Quality Reporting (REHQR), and Ambulatory Surgical Center Quality Reporting (ASCQR) Programs Corrections

On pages 94368 and 94380, we are correcting URL links in footnotes 270 and 316 (respectively) for accuracy.

On page 94407, we are making a technical edit and removing language for accuracy.

On pages 94411 and 94412, we are correcting URL links in footnotes 446 and 461 (respectively) for accuracy.

On pages 94416 and 94417, we are correcting section references for accuracy.

On page 94417, we are correcting final rule references for accuracy.

On page 94522, we are correcting the number of web-based measures that are being finalized in the rule for the Hospital OQR program.

On pages 94561 through 94563, we are correcting section references for accuracy.

## 3. Medicaid Clinic Services Four Walls Exceptions Corrections

On pages 94442, 94446, 94448, 94452, and 94561, we made typographical errors. Specifically, on page 94442 we inadvertently included a dollar symbol (\$), on page 94446 we inadvertently repeated the word “that,” on page 94448 we inadvertently repeated the phrase “rely upon,” on page 94452 we inadvertently omitted the word “system” from the phrase “mistrusted the health care system at higher rates,” and on page 94561 we inadvertently included the phrase “Four Walls:” at the beginning of the title for Table 207.

On page 94455, we incorrectly stated in footnote 586 that as of November 27, 2024, the Health Resources and Services Administration (HRSA) had not finalized their proposed changes to the Federal Office of Rural Health Policy’s (FORHP) definition of rural. However, HRSA finalized changes to FORHP’s definition of rural in a final notice published in the **Federal Register** on November 21, 2024 (89 FR 92131), which post-dated CMS’s development of the final rule. We are making corrections to state that, as of the

development of the OPSS final rule, HRSA had not finalized changes to FORHP’s definition of rural.

## 4. Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals

On pages 94481, 94483, 94542, 94569, 94571, 94572, and 94573 we are replacing the word “biannual” and/or “biannually” with the word “biennial” and/or “biennially”, to clarify that staff training is required every other year, not twice a year.

### C. Summary of Errors in the Regulations Text

On page 94586, in the regulations text for § 406.27(d)(1), we are adding in a missing word.

On page 94591, we made technical errors in the regulations text amendatory instructions for § 457.342, by excluding the numbering of paragraph (a) and the reservation of paragraph (b).

On pages 94592 and 94594 we are replacing the word “biannual” with the word “biennial”, to clarify that staff training is required every other year, not twice a year.

### D. Summary of Errors and Corrections to the OPSS and ASC Addenda Posted on the CMS Website

#### 1. OPSS Addenda Summary of Errors

To view any corrections or updates to the final CY 2025 OPSS status indicators, APC assignments, relative weights, copayment rates, device-intensive status, and short descriptors in the OPSS addenda, we refer readers to the Addenda and supporting files that are posted on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/hospital-outpatient/regulations-notice>. Select “CMS–1809–F2” from the list of regulations. All corrected Addenda for this correcting document are contained in the zipped folder titled “2025 F2 OPSS Addenda” at the bottom of the CMS web page for CMS–1809–F2.

#### a. Errors in Addendum B

We are making a number of updates to Addendum B (OPSS Payment by HCPCS Code for CY 2025) to correct typographical errors. We are also correcting the following technical errors:

We incorrectly deleted HCPCS code C9734 (U/s trmt, not leiomyomata) from Addendum B by inadvertently assigning it to status indicator “D”. We are correcting this error by replacing status indicator “D” with “J1” for HCPCS code C9734 and assigning it to APC 5115 (Level 5 Musculoskeletal

Procedures) in Column E, as well as adding corresponding data to Columns F–K to reflect the updated APC 5115 assignment.

In addition, due to an inadvertent miscalculation of the payment rate for CPT code 15013 as explained in more detail in section II.B. Summary of Errors in the Preamble of this notice, we incorrectly assigned CPT code 15013 (Prep skn cll ssp agrft 1st) status indicator “T” and are correcting it to “S”. We also incorrectly assigned CPT code 15013 to APC 1567 (New Technology—Level 30 (\$6001–\$6500)) and are correcting it to APC 1532 (New Technology—Level 32 (\$7001–\$7500)).

Due to an inadvertent miscalculation of the payment rate for HCPCS code C8002 for the same reason as the error for CPT code 15013, we incorrectly assigned HCPCS code C8002 status indicator “T” and we are correcting it to “S”. We also incorrectly assigned HCPCS code C8002 to APC 1567 (New Technology—Level 30 (\$6001–\$6500)) and are correcting it to APC 1532 (New Technology—Level 32 (\$7001–\$7500)).

#### b. Errors in Addendum C

In Addendum C (Final HCPCS Codes Payable Under the 2025 OPSS by APC), we are making a number of updates to correct the following technical errors:

Due to the errors described in more detail in section II.B Summary of Errors in the Preamble of this notice related to CPT code 15013 and HCPCS code C8002, we are deleting CPT code 15013 and HCPCS code C8002 from the list of HCPCS and CPT codes assigned to APC 1567 (New Technology—Level 30 (\$6001–\$6500)). We are adding CPT code 15013 and HCPCS code C8002 to the list of HCPCS and CPT codes assigned to APC 1532 (New Technology—Level 32 (\$7001–\$7500)) in Addendum C.

Due to the incorrect deletion of HCPCS code C9734 described in more detail in section II.B Summary of Errors in the Preamble of this notice, we are adding HCPCS code C9734 back to the list of HCPCS and CPT codes assigned to APC 5115 (Level 5 Musculoskeletal Procedures) in Addendum C.

#### c. Errors in Addendum P

In the tab titled “2025 FR Device Intensive List”, we inadvertently included two rows for each of CPT codes 0795T, 0801T, 27279, and 93656. The additional rows for each of the codes contain values that were incorrectly calculated. For CPT codes 0795T and 0801T, the additional rows included values calculated using CY 2023 data, when the codes were assigned a status indicator of “E1.”

Status indicator “E1” is assigned to items, codes, and services that are not covered by any Medicare outpatient benefit category; are statutorily excluded; or are not reasonable and necessarily. Because procedures assigned status indicator “E1” are not payable under the OPSS, claims data for codes assigned this status indicator should not be used to assign device offset percentages. Accordingly, we are deleting the additional rows that contained incorrect values for these codes. For CPT codes 27279 and 93656, the additional rows included a Device Offset Percentage and Device Offset Amount for each of the codes that was calculated using the APC Device Offset Percentage. But because CPT codes 27279 and 93656 were separately payable in CY 2023, the Device Offset Percentage and Device Offset Amount for each code should have been calculated using CY 2023 claims data. Therefore, we are deleting the additional rows for these codes as well.

In the tabs titled “FR 2025 Device Intensive List” and “2025 FR HCPCS Offsets”, we inadvertently included the incorrect APC Device Offset Percentage for procedures assigned to APC 5463—Level 3 Neurostimulator and Related Procedures. We have revised the APC Device Offset Percentage from 26.11 percent to 26.17 percent.

In the tab titled “2025 FR HCPCS Offsets”, which is described as a “list of the device offset percentages and device offset amounts for all HCPCS codes with CY 2023 claims data,” we inadvertently included device offset percentages based on claims data from procedures that were assigned status indicator “E1” for CY 2023. Because status indicator “E1” is assigned to items, codes, and services that are not covered by any Medicare outpatient benefit category; are statutorily excluded; or are not reasonable and necessary, claims data for procedures assigned this status indicator should not be used to assign device offset percentages as these procedures were not payable under the OPSS in CY 2023 and do not have OPSS claims data. The procedures that were assigned status indicator “E1” for CY 2023 but were included in the “2025 FR HCPCS Offsets” tab in Addendum P were CPT codes 0621T, 0737T, 0764T, 0795T, 0796T, 0801T, and 74263. We corrected the 2025 FR HCPCS Offsets file by deleting the entries for these procedures.

## 2. ASC Payment System Addenda Summary of Errors

To view the corrected final CY 2025 ASC payment indicators, payment weights, payment rates, multiple

procedure discounting indicators, and device offset amounts/device portions in Addendum AA, BB, and FF that resulted from these technical corrections, we refer readers to the Addenda and supporting files on the CMS website at: <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/ASC-Regulations-and-Notices.html>. Select “CMS-1809-F2” from the list of regulations. All corrected ASC addenda for this correcting document are contained in the zipped folder entitled “Addendum AA, BB, DD1, DD2, and EE” at the bottom of the CMS web page for CMS-1809-F2.

### a. Errors in Addendum AA

We inadvertently assigned “N” (No) in column D (Subject to Multiple Procedure Discounting) to HCPCS Codes C7500 through C7565 in the list of ASC complexity adjustment codes. We are correcting this error in Addendum AA by revising the procedure discounting status from “N” (No) to “Y” (Yes) for these codes, indicating that the procedures to which these codes correspond are subject to multiple procedure discounting.

As a result of the correction to the OPSS APC and status indicator assignment for the skin cell suspension autograft procedures described by CPT code 15013 and HCPCS code C8002 described in this correction notice, we are revising the multiple procedure discounting status in Column D for CPT code 15013 and HCPCS code C8002 from “Y” (Yes) to “N” (No) indicating that the procedure is not subject to multiple procedure discounting. We are also correcting the OPSS APC assignment from APC 1567 to APC 1532 for CPT code 15013 and HCPCS code C8002. Therefore, in Addendum AA, as a result of the correction to the APC assignment for CPT code 15013 and HCPCS code C8002, we are correcting the Final CY 2025 Payment Weight (Column G) and Final CY 2025 Payment Rate (Column H) for CPT code 15013 and HCPCS code C8002 to reflect the correct APC assignment of APC 1532—New Technology—Level 32 (\$7001–\$7500).

We inadvertently assigned a payment rate to CPT code 53865 using APC 5374—Level 4 Urology and Related Services—rather than APC 5376—Level 6 Urology and Related Services. In Addendum AA, we are revising the Final CY 2025 Payment Weight and Final CY 2025 Payment Rate column (Column H) to reflect the corrected APC for CPT code 53865.

### b. Errors in Addendum BB

We inadvertently assigned a final CY 2025 ASC payment rate to brachytherapy APCs that were not designated as Low Volume APCs that was based on the mean unit cost. This affected HCPCS codes:

- C1717 (Brachytx, non-str, hdr ir-192);
- C2616 (Brachytx, non-str, yttrium-90);
- C2634 (Brachytx, non-str, ha, i-125);
- C2638 (Brachytx, stranded, i-125);
- C2639 (Brachytx, non-stranded, i-125);
- C2640 (Brachytx, stranded, p-103);
- C2641 (Brachytx, non-stranded, p-103);
- C2643 (Brachytx, non-stranded, c-131);
- C2698 (Brachytx, stranded, nos), and;
- C2699 (Brachytx, non-stranded, nos).

We are correcting the Final CY 2025 Payment Rate column (Column H) to reflect the geometric mean unit cost for these brachytherapy APCs.

We inadvertently made an error in the Short Descriptor column (Column C) for HCPCS Code J1552 and are correcting it from “Inj, alyglo, 100 mg” to read “Inj, alyglo, 500 mg”.

We inadvertently displayed the incorrect payment rate for nine diagnostic radiopharmaceuticals in the HCPCS A9500 through A9600 range. We are correcting the Final CY 2025 Payment Rates column (Column H) for these radiopharmaceuticals.

### c. Errors in Addendum FF

We inadvertently assigned CPT code 53865 to APC 5374—Level 4 Urology and Related Services—rather than APC 5376—Level 6 Urology and Related Services. We are revising the Final CY 2025 APC (Column E), Final CY 2025 APC Device Offset Percentage (Column F), Final CY 2025 OPSS Payment Rate (Column G), and Final CY 2025 Device Offset Amount/Device Portion (Column I) to reflect the corrected APC for CPT code 53865.

We made an error in the OPSS APC assignment for CPT code 15013 and HCPCS Code C8002 as described previously. As a result of the correction to the OPSS assignment to APC 1532—New Technology—Level 32 (\$7001–\$7500)—for CPT code 15013 and HCPCS Code C8002, we are correcting the Final CY 2025 APC (Column E) and Final CY 2025 OPSS Payment Rate (Column G) for these codes to reflect this APC correction.

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

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rulemaking in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correction does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document corrects technical and typographical errors in the preamble, regulations text, addenda, and tables included or referenced in the CY 2025 OPPTS/ASC final rule with comment period but does not make substantive changes to the policies or payment methodologies that were adopted in the CY 2025 OPPTS/ASC final rule with comment period. As a result, this correction is intended to ensure that the information in the CY 2025 OPPTS/ASC final rule with comment period accurately reflects the policies adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to

incorporate the corrections in this document into the final rule with comment period or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the CY 2025 OPPTS/ASC final rule with comment period reflects our policies. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, we are simply correctly implementing the policies that we previously proposed, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the CY 2025 OPPTS/ASC final rule with comment period accurately reflects these payment methodologies and policies. For these reasons, we believe we have good cause to waive the notice and comment and delayed effective date requirements.

Moreover, even if these corrections were considered to be retroactive rulemaking, they would be authorized under section 1871(e)(1)(A)(ii) of the Act, which permits the Secretary to issue a rule for the Medicare program with retroactive effect if the failure to do so would be contrary to the public interest. As we have explained previously, we believe it would be contrary to the public interest not to implement the corrections in this final rule correction because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the CY 2025 OPPTS/ASC final rule with comment period accurately reflects our policies.

### IV. Correction of Errors

In FR Doc. 2024–25521 of November 27, 2024 (89 FR 93912), we are making the following corrections:

#### A. Correction of Errors in For Further Contact Information

1. On page 93913, column 2, fourth paragraph, line 4, the email address for Kelly Wojciechowski is corrected to read “*Kelly.Wojciechowski@cms.hhs.gov*”.

#### B. Correction of Errors in the Preamble

1. On page 94054, third column, last partial paragraph, lines 3 and 4, “CPT code 0899T” is corrected to read “CPT code 0889T”.

2. On page 94055, third column, first partial paragraph, first line, “code 0899T” is corrected to read “code 0889T”.

3. On page 94111, in the heading titled “54. Skin Cell Suspension Autograft (SCSA) Procedures, CPT Codes 15011 Through 15018 (APCs 5051, 5054, and 1567)”, line 4, the figure “1567” is corrected to read “1532”.

4. On page 94114, second column, a. First partial paragraph, (1) Lines 1 through 3, “APC 1567 (New Technology—Level 30 (\$6001–6500)) with a \$6,250.50 payment rate” is corrected to read “APC 1532 (New Technology—Level 32 (\$7001–7500)) with a \$7,250.50 payment rate”.

(2) Lines 12 through 13, “APC 1567 with a payment rate of \$6,250.50” are corrected to read “APC 1532 with a payment rate of \$7,250.50”.

b. First full paragraph, lines 12 through 13 “APC 1567 ((New Technology—Level 30 (\$6001–\$6500)))” is corrected to read “APC 1532 (New Technology—Level 32 (\$7001–7500))”.

5. On page 94120, second column, second full paragraph, lines 4 through 9 that read “We note that we will replace HCPCS code C9734 with CPT code 5X008 (55882) effective January 1, 2025, as well as assign the underlying claims associated with C9734 to CPT code 5X008 (55882)” are corrected in their entirety to read, “We note that we will crosswalk claims for HCPCS code C9734 to CPT code 5X008 (55882) to determine the APC assignment for CPT code 5X008 (55882) for CY 2025. HCPCS C9734 will continue to be assigned to APC 5115 (Level 5 Musculoskeletal Procedures) in CY 2025.”

6. On page 94368, first column, second footnoted paragraph (footnote 270), lines 4 through 6, the link “[https://www.cms.gov/About-CMS/Agency-Information/OMH/OMH\\_Dwnld-CMSEquityPlanforMedicare\\_090615.pdf](https://www.cms.gov/About-CMS/Agency-Information/OMH/OMH_Dwnld-CMSEquityPlanforMedicare_090615.pdf)” is corrected to read “[https://www.cms.gov/About-CMS/Agency-Information/OMH/OMH\\_Dwnld-CMS\\_EquityPlanforMedicare\\_090615.pdf#:~:text=The%20Centers%20for%20Medicare%20%26%20Medicaid%20Services%20%28CMS%29,evidence%20base%2C%20identifying%20opportunities%2C%20and%20gathering%20stakeholder%20input](https://www.cms.gov/About-CMS/Agency-Information/OMH/OMH_Dwnld-CMS_EquityPlanforMedicare_090615.pdf#:~:text=The%20Centers%20for%20Medicare%20%26%20Medicaid%20Services%20%28CMS%29,evidence%20base%2C%20identifying%20opportunities%2C%20and%20gathering%20stakeholder%20input)”.

7. On page 94380, first column, fourth footnoted paragraph (footnote 316), lines 3 through 5, the link “<https://www.beckersasc.com/asc-coding-billing-and-collections/hopds-vs-ascs-10-considerations-for-2024.html>” is corrected to read “<https://www.beckersasc.com/asc-coding-billing-and-collections/hopds-vs-ascs-10-considerations-for-2024.html>”.

8. On page 94407, third column, first partial paragraph,

a. Line 19, the punctuation mark “,” is replaced with “.”

b. Lines 19 through 22, the language “which is administered on the first day post-procedure and then followed up at 14 days.” is removed.

9. On page 94411, first column, second footnoted paragraph (footnote 446), lines 4 through 8, the link “[https://p4qm.org/sites/default/files/2023-09/Guidebook-of-Policies-and-Procedures-for-Pre-Rulemaking-Measure-Review-%28PRMR%29-and-Measure-SetReview-%28MSR%29-Final\\_0.pdf](https://p4qm.org/sites/default/files/2023-09/Guidebook-of-Policies-and-Procedures-for-Pre-Rulemaking-Measure-Review-%28PRMR%29-and-Measure-SetReview-%28MSR%29-Final_0.pdf)” is corrected to read “[https://p4qm.org/sites/default/files/2023-09/Guidebook-of-Policies-and-Procedures-for-Pre-Rulemaking-Measure-Review-%28PRMR%29-and-Measure-Set-Review-%28MSR%29-Final\\_0.pdf](https://p4qm.org/sites/default/files/2023-09/Guidebook-of-Policies-and-Procedures-for-Pre-Rulemaking-Measure-Review-%28PRMR%29-and-Measure-Set-Review-%28MSR%29-Final_0.pdf)”.

10. On page 94412, third column, first footnoted paragraph (footnote 461), lines 4 through 6, the link: “<https://p4qm.org/sites/default/files/2024-02/PRMR-Hospital-Recommendation-Group-MeetingSummary-Final.pdf>” is corrected to read “<https://p4qm.org/sites/default/files/2024-02/PRMR-Hospital-Recommendation-Group-Meeting-Summary-Final.pdf>”.

11. On page 94416, within table note \*\*\*\* corresponding to Table 163 titled “NEWLY FINALIZED HOSPITAL OQR PROGRAM MEASURE SET BEGINNING WITH THE CY 2027 PAYMENT DETERMINATION”, line 3, section reference “XV.B.3.B” is corrected to read “XV.C.1.b”.

12. On page 94417,

a. Within table note \*\*\* corresponding to Table 164 titled “NEWLY FINALIZED HOSPITAL OQR PROGRAM MEASURE SET BEGINNING WITH THE CY 2031 PAYMENT DETERMINATION”, line 3, section reference “XV.B.3.B” is corrected to read section “XV.C.1.b”.

b. Third column, last full paragraph, lines 3 through 10, (“77 FR 68484; 80 FR 70521, 87 FR 72110 through 72112; 78 FR 75097 through 75100; and 88 FR 82004 through 82006, respectively) for information regarding our claims-based, web-based, eCQM, chart-abstracted, PRO-PM, and survey-based data submission and reporting requirements.” is corrected to read “(78 FR 75111 and 75112; 80 FR 70521 through 70522; 86 FR 63863 through 63866; 87 FR 72110 through 72112; 88 FR 82004 through 82009, respectively) for information regarding our claims-based, web-based, survey-based, chart-abstracted, eCQM, and PRO-PM data submission and reporting requirements.”.

13. On page 94442, first column, last paragraph, line 6, the figure “\$2.8

million” is corrected to read “2.8 million”.

14. On page 94446, third column, fourth full paragraph, line 2, “that that” is corrected to read “that”.

15. On page 94448, third column, second full paragraph, line 22, “communities that rely upon rely upon” is corrected to read “communities that rely upon”.

16. On page 94452, third column, last paragraph, line 31 “mistrusted the health care at higher” is corrected to read as “mistrusted the health care system at higher”.

17. On page 94455, second column, first fully footnoted paragraph (footnote 586), “As of November 27, 2024, HRSA has not finalized these proposed changes to FORHP’s definition of rural.” is corrected to read “As of the development of this final rule, HRSA had not finalized these proposed changes to FORHP’s definition of rural.”

18. On page 94481, third column, first partial paragraph, line 12 the word “biannual” is corrected to read “biennial”.

19. On page 94483, first column, a. Eighth bullet, line 5, the word “biannual” is corrected to read “biennial”.

b. Last bullet, line 5 the word “biannual” is corrected to read “biennial”.

20. On page 94522,

a. Second column, last partial paragraph, line 2, the figure “four” is corrected to read “three”.

b. Third column, first partial paragraph,

(1) Line 1, the word “and” is inserted before “(3)”.

(2) Line 7, the phrase “; and (4)” is corrected to read “. We are also adopting”.

21. On page 94542, third column,

a. First partial paragraph, line 17, the word “biannually” is corrected to read “biennially”.

b. First full paragraph, line 13 the word “biannual” is corrected to read “biennial”.

22. On page 94561,

a. The table title, “Table 207: Four Walls: Accounting Statement: Medicaid Clinic Services Four Walls Exceptions” is corrected to read as “TABLE 207: ACCOUNTING STATEMENT: MEDICAID CLINIC SERVICES FOUR WALLS EXCEPTIONS”

b. Third column, first full paragraph, line 1, section reference “XXVI.B” is corrected to “XXVI.A”.

23. On page 94562,

a. First column,

(1) First full paragraph, line 8, section reference “XXVI.B” is corrected to “XXVI.A”.

(2) Last paragraph, line 8, section reference “XXVI.B” is corrected to “XXVI.A”.

b. Third column, first full paragraph, line 1, section reference “XXVI.C” is corrected to “XXVI.B”.

24. On page 94563,

a. First column, first full paragraph, line 8, section reference “XXVI.C” is corrected to “XXVI.B”.

b. Second column, second full paragraph, line 1, section reference “XXVI.D” is corrected to “XXVI.C”.

c. Third column, first full paragraph, line 8, section reference “XXVI.D” is corrected to “XXVI.C”.

25. On page 94569, first column, first partial paragraph, line 6 the word “biannually” is corrected to read “biennially.”

26. On page 94571, bottom of the page, first column; first partial paragraph, line 12, the word “biannual” is corrected to read “biennial.”

27. On page 94572,

a. Second column, first partial paragraph, line 1, the word “biannual” is corrected to read “biennial”.

b. Third column, first partial paragraph, line 44, the word “biannual” is corrected to read “biennial”.

28. On page 94573, third column; first partial paragraph, line 1, the word “biannual” is corrected to read “biennial”.

## List of Subjects

### 42 CFR Part 406

Diseases, Health facilities, Medicare.

### 42 CFR Part 457

Administrative practice and procedure, Grant programs—health, Health insurance, Reporting and recordkeeping requirements.

### 42 CFR Part 482

Grant programs—health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

### 42 CFR Part 485

Grant programs—health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments:

## PART 406—HOSPITAL INSURANCE ELIGIBILITY AND ENTITLEMENT

■ 1. The authority citation for part 406 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1395i–2, 1395i–2a, 1395p, 1395q and 1395hh.

### § 406.27 [Amended]

■ 2. Amend § 406.27 in the second sentence of paragraph (d)(1)(i) by adding

the word “the” before the phrase “custody of penal authorities and . . .”

#### PART 457—ALLOTMENTS AND GRANTS TO STATES

■ 3. The authority citation for part 457 continues to read as follows:

**Authority:** 42 U.S.C. 1302.

■ 4. Revise § 457.342 to read as follows:

##### § 457.342 Continuous eligibility for children.

(a) A State must provide continuous eligibility for children under a separate CHIP in accordance with the terms of § 435.926 of this chapter, and subject to a child remaining ineligible for Medicaid, as required by section 2110(b)(1) of the Act and § 457.310 (related to the definition and standards for being a targeted low-income child) and the requirements of section 2102(b)(3) of the Act and § 457.350 (related to eligibility screening and enrollment).

(b) [Reserved]

#### PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

■ 5. The authority citation for part 482 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1395hh, and 1395rr, unless otherwise noted.

##### § 482.59 [Amended]

■ 6. Amend § 482.59 in paragraph (c)(3) by correcting the word “biannual” to read “biennial”.

#### PART 485—CONDITIONS OF PARTICIPATION FOR CRITICAL ACCESS HOSPITALS

■ 7. The authority citation for part 485 continues to read as follows:

**Authority:** 42 U.S.C. 1302 and 1395(hh).

##### § 485.649 [Amended]

■ 8. Amend § 485.649 in paragraph (c)(3) by correcting the word “biannual” to read “biennial”.

**Elizabeth J. Gramling,**

*Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2025–00081 Filed 1–8–25; 8:45 am]

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#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

##### National Endowment for the Arts

##### 45 CFR Parts 1149 and 1158

**RIN 3135–AA33**

##### Civil Penalties Adjustment for 2025

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Final rule.

**SUMMARY:** The National Endowment for the Arts (NEA) is adjusting the maximum civil monetary penalties (CMPs) that may be imposed for violations of the Program Fraud Civil Remedies Act (PFCRA) and the NEA’s Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. This final rule provides the 2025 annual inflation adjustments to the initial “catch-up” adjustments made on June 15, 2017, and reflects all other inflation adjustments made in the interim.

**DATES:** This rule is effective January 13, 2025.

**FOR FURTHER INFORMATION CONTACT:** William Langer, Assistant General Counsel, National Endowment for the Arts, 400 7th St. SW, Washington, DC 20506, Telephone: 202–682–5595.

##### SUPPLEMENTARY INFORMATION:

##### 1. Background

On December 12, 2017 the NEA issued a final rule entitled “Federal Civil Penalties Adjustments”<sup>1</sup> which finalized the NEA’s June 15, 2017 interim final rule entitled “Implementing the Federal Civil Penalties Adjustment Act Improvements Act”,<sup>2</sup> implementing the 2015 Act (section 701 of Pub. L. 114–74), which amended the Inflation Adjustment Act (28 U.S.C. 2461 note) requiring catch-up and annual adjustments to the NEA’s CMPs. The 2015 Act requires agencies make annual adjustments to its CMPs for inflation.

A CMP is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is (1) for a specific monetary amount as provided by Federal law, or has a maximum amount

provided for by Federal law; (2) assessed or enforced by an agency pursuant to Federal law; and (3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

These annual inflation adjustments are based on the percentage change in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment, relative to the October CPI–U in the year of the previous adjustment. The formula for the amount of a CMP inflation adjustment is prescribed by law, as explained in OMB Memorandum M–16–06 (February 24, 2016), and therefore the amount of the adjustment is not subject to the exercise of discretion by the Chair of the National Endowment for the Arts.

The Office of Management and Budget has issued guidance on implementing and calculating the 2025 adjustment under the 2015 Act.<sup>3</sup> Per this guidance, the CPI–U adjustment multiplier for this annual adjustment is 1.02598. In its prior rules, the NEA identified two CMPs, which require adjustment: the penalty for false statements under the PFCRA and the penalty for violations of the NEA’s Restrictions on Lobbying. With this rule, the NEA is adjusting the amount of those CMPs accordingly.

##### 2. Dates of Applicability

The inflation adjustments contained in this rule shall apply to any violations assessed after January 15, 2025.

##### 3. Adjustments

Two CMPs in NEA regulations require adjustment in accordance with the 2015 Act: (1) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 1149.9) and (2) the penalty associated with Restrictions on Lobbying (45 CFR 1158.400; 45 CFR part 1158, app. A).

##### *A. Adjustments to Penalties Under the NEA’s Program Fraud Civil Remedies Act Regulations*

The current maximum penalty under the PFCRA for false claims and statements is currently set at \$13,945. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2023 and October 2024, the CPI–U increased by a multiplier of 102.598%. Therefore, the new post-adjustment maximum penalty under the PFCRA for

<sup>1</sup> 82 FR 58348.

<sup>2</sup> 82 FR 27431.

<sup>3</sup> OMB Memorandum M–25–02 (December 17, 2024).