

# PUBLICATION

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## CMS's Proposed Adoption of New Geographic Areas Likely to Have Significant Reimbursement Effects [Ober|Kaler]

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In its proposed FY 2015 inpatient prospective payment system (IPPS) rule, CMS asserts its intent to adopt the most recent labor market area delineations issued by the Office of Management and Budget (OMB), which utilize 2010 Census data. As a result of the new data, there would be new Core-Based Statistical Areas (CBSAs), urban counties that would become rural counties, rural counties that would become urban counties, and existing CBSAs that would be split apart. CMS also addresses how these changes would affect various hospital reclassifications, the out-migration adjustment, and treatment of certain hospitals in rural counties known as Lugar hospitals. CMS proposes temporary relief for hospitals that would be negatively affected by the changes. **Comments are due June 30, 2014.** See pages 28054 – 28084 of the [proposed rule \[PDF\]](#) for the wage index discussion.

Under the new rules:

- 37 counties that are currently urban would be rural,
- 105 counties that are currently rural would be urban,
- 19 counties would remain in a CBSA that would change names but still retain the same counties that comprise it,
- 46 counties would change from one CBSA to another, and
- One additional state, Delaware, would become an all-urban state.

The specific counties affected are listed in the proposed rule.

## Transition Relief

CMS acknowledges that these changes could result in significant negative payment impacts for some hospitals. To ease the transition, CMS proposes the following transitions, which are similar to those it adopted with the FY 2005 adoption of new labor market area delineations:

- Hospitals currently in an urban county that would become rural, and would have no form of wage index reclassification or redesignation in place for FY 2015, would be assigned the urban wage index value of the CBSA in which they are physically located for FY 2014 for a period of three fiscal years. These hospitals would use their rural status for other payment considerations.
- Lugar hospitals, i.e., hospitals in certain rural areas deemed urban under section 1886(d)(8)(B) of the Social Security Act, that would no longer be eligible for the deemed urban status, would for the next three years (FYs 2015, 2016, and 2017) be assigned the FY 2015 area wage index value of the urban CBSA to which they geographically belonged in FY 2014, assuming no other form of wage index reclassification or redesignation is in place.
- Hospitals that would experience a decrease in wage index under the new OMB delineations would receive a one-year blended wage index, using a 50/50 blend of the hospital's wage index using the hospital's FY 2014 CBSA and FY 2015 CBSA.

## Effects of New Delineations on Reclassified Hospitals

- Hospitals that find that the new delineations of the CBSA to which they are seeking reclassification would result in their receiving a lower wage index than that of the area in which they are physically located, have 45 days from the date of the publication of the proposed rule to contact the Medicare Geographic Classification Review Board (MGCRB) and withdraw their FY 2015 reclassification.
- Reclassified hospitals that would be affected by CBSAs that would be split apart or counties that would shift to another CBSA, would be assigned to a CBSA that (1) would contain the most proximate county that is located outside the hospital's proposed FY 2015 geographic labor market area, and (2) is part of the original FY 2014 CBSA to which the hospital is reclassified.
- New Lugar counties, based on the new Census data, are listed in the proposed rule. Their number would increase from the current count of 98 to 127.
- Critical access hospitals (CAHs) that rely on a rural reclassification for their status and that would no longer be eligible for that reclassification due to the new delineations, would have two years to seek a new rural reclassification without the threat of losing their CAH status.

## Out-Migration Adjustment

The current out-migration adjustments are based on data from the 2000 Census that were compiled from responses to the “long form” of the Census survey. The 2010 Census was “short form” only and did not include the same data elements used from the 2000 Census to develop the current out-migration adjustment. The Census Bureau is working with CMS to provide an alternative dataset to use for developing a new out-migration adjustment beginning FY 2016. CMS proposes that the FY 2015 out-migration adjustments continue to be based on the 2000 Census data, as was used for FY 2014 adjustments. It further proposes that out-migration adjustments approved for FY 2015 continue for the full three year statutory period, adopting the data used for FY 2014. The agency is seeking comments on how to implement the new out-migration adjustment data for FY 2016, given the statutory requirement that an out-migration adjustment be effective for three fiscal years.

## Change to Wage Index Development Timetable

In an attempt to improve the accuracy of the wage data used for the wage index, CMS proposes to start the development process much earlier for the FY 2017 wage index. Specifically, the process would begin with the posting of the preliminary public use files (PUFs) mid-May of 2015 (rather than September of 2015). The proposed revisions to the timetable would not reduce the amount of time that either hospitals or MACs have to review the wage data. CMS proposes that the FY 2016 wage data development process serve as a transition to the more significant timeline changes for FY 2017, and that the FY 2016 initial PUF files be posted in late May of 2014.

## Ober|Kaler's Comments

The new labor market delineations may cause many hospitals to experience significant changes in their wage indexes. The new delineations will also result in changes to graduate medical education (GME) and indirect medical education (IME) payments for some hospitals. There may also be Stark Law implications, as some providers may be relying on a Stark Law exception dependent on their patients being from a rural location, for which they would no longer qualify.

Hospitals should review the proposed rule and determine if the changes require that they take any action, such as notifying the MGCRB to withdraw their reclassification in order to take advantage of the most favorable wage index to which they are entitled or reevaluating their exposure under the Stark Law. Hospitals should be mindful of the June 30, 2014 deadline for submission of comments on the rule.