



**WISCONSIN HOSPITAL
ASSOCIATION**

**SUMMARY OF THE
FFY 2008 PROPOSED RULE
FOR THE MEDICARE PROSPECTIVE
PAYMENT SYSTEM AND CONSOLIDATED
BILLING FOR SKILLED NURSING FACILITIES**

May 2007

SUBMISSION OF COMMENTS

This document provides an overview of the Medicare proposed rule for the Skilled Nursing Facility Prospective Payment System (SNF PPS) for federal fiscal year (FFY) 2008. Additional information regarding the SNF PPS is available on the Centers for Medicare and Medicaid Services (CMS) Web site at <http://www.cms.hhs.gov/center/snf.asp>.

CMS must receive comments on the proposal by 5 p.m. June 29. CMS requests that comments reference the file code CMS-1545-P and the specific “issue identifier” that precedes the section on which you choose to comment. Each section of this summary provides the “issue identifier” that CMS request you reference in your comments.

Comments on the proposed rule can be:

Submitted electronically at: <http://www.cms.hhs.gov/eRulemaking>.

Click on the “Submit electronic comments on CMS regulations with an open comment period” link. (Attachments should be in Microsoft Word, WordPerfect, or Excel format.)

-OR-

Regular Mail (an original and two copies):

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1545-P
P.O. Box 8016
Baltimore, MD 21244-8016

Express/Overnight Mail (an original and two copies):

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1545-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

-OR-

Hand-delivered to (an original and two copies):

Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

OR

7500 Security Boulevard
Baltimore, MD 21244 -1850
Note: Call (410) 786-9994 to
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PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES

I. OVERVIEW

CMS published the proposed Medicare SNF PPS rule for FFY 2008 in the May 4, 2007 *Federal Register*, which will be effective for services beginning October 1, 2007. All provisions of the proposed rule will also apply to SNF PPS payments for swing bed services in rural hospitals.

Note: Text in italics is extracted from the *Federal Register*;

II. PAYMENT RATE

Marketbasket Update for FFY 2008

Refer to “**Market Basket Index**” if you submit a comment on this issue.

(Federal Register pages 25540 – 22541)

CMS is proposing to provide a 3.3% marketbasket index for FFY 2008 based on Global Insight’s first quarter 2007 forecast. Even though, CMS is proposing a full marketbasket update for FFY 2008 CMS states “. . .*that both the President’s budget and the recommendations of the Medicare Payment Advisory Commission (MedPAC) include a proposal for a zero percent update in the SNF market basket for FY 2008, and that the provisions outlined in this proposed rule would need to reflect any legislation that the Congress enacts to adopt this proposal.*)”

Revising and Rebasing the SNF Facility Marketbasket Index

Refer to “Revising and Rebasing” if you submit a comment on this issue.

(Federal Register pages 25541 – 25555)

Background: Currently, the SNF marketbasket is based on fiscal year 1997 total facility costs, which includes costs not reimbursed under the SNF PPS (such as nursing facility, long-term care, home health agency, and intermediate care facility costs) for 21 cost categories. As a result of using the 1997 based SNF marketbasket for rebasing, CMS was unable to separate Medicare allowable costs from total facility costs, due to insufficient data.

CMS uses only freestanding SNF data to determine true costs for the marketbasket update each year since hospital-based SNF data would skew the marketbasket index due to allocations for overhead.

CMS Proposal: For FFY 2008, CMS is “. . . *proposing both to rebase and revise the SNF market basket to reflect 2004 Medicare allowable total cost data (routine, ancillary, and capital-related).*” CMS’ proposal is based on the most recent available Medicare cost report data, compared to the current methodology based on total facility costs, which resulted in similar cost weights. Therefore, CMS believes that “. . . *using only Medicare allowable costs better reflects the cost structure of SNFs serving Medicare beneficiaries.*” Furthermore, CMS will continue to use only freestanding SNF data to determine actual costs experienced by a SNF.

CMS is also proposing to add two new cost categories; postage and professional liability insurance to the current 21 cost categories. In addition, CMS has proposed new price proxies that will replace current price proxies within some of the existing 21 cost categories. Based on CMS' estimates, the proposal to rebase and revise the marketbasket index for FFY 2008 will be 0.2% lower than the marketbasket under the current methodology.

For more details on the proposed cost categories refer to the *Federal Register* pages referenced in the heading above.

Forecast Error Adjustment

Refer to “**Market Basket Index**” if you submit a comment on this issue.
([Federal Register pages 25540 – 22541](#))

Background: Under current regulations, CMS is required to provide a marketbasket forecast error adjustment whenever the error exceeds a threshold of 0.25 percentage points. This threshold was established in the FY 2004 final rule. This adjustment measures the difference between the forecasted and actual marketbasket increase against a specified threshold each year. For FFY 2007, the current SNF marketbasket forecast error threshold is set at 0.25 percentage points.

CMS Proposal: “ . . . we are proposing to raise the 0.25 percentage point threshold for forecast error adjustments under the SNF PPS to 0.5 percentage point effective with FY 2008 . . . the payment rates for FY 2008 do not include a forecast error adjustment, as the difference between the estimated and actual amounts of increase in the market basket index for FY 2006 (the most recently available fiscal year for which there is final data) does not exceed the proposed 0.5 percentage point threshold.”

While the proposed rule applies the new threshold in FY 2008, CMS is also considering delaying implementation of this increase in threshold to FY 2009. In addition, CMS is considering an even higher threshold for the forecast adjustment up to 1.0 percentage point. CMS invites comments on increasing the forecast error adjustment threshold and making the proposal effective in FFY 2009.

AIDS Add-on

Refer to “**Annual Update**” if you submit a comment on this issue.
([Federal Register page 25531](#))

Background: Section 511 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) implemented a 128% increase in payment rates to residents with acquired immunodeficiency syndrome (AIDS) whose claims have diagnosis code 042. This add-on is intended to remain in effect until there is an appropriate adjustment in the case mix that accounts for the costs of care provided to these residents.

CMS Proposal: CMS proposes to retain the AIDS add-on for FFY 2008, since no changes have been proposed for Resource Utilization Groups (RUGS) III.

Wage Index

Refer to “Annual Update” if you submit a comment on this issue.

[\(Federal Register pages 25535 – 22539\)](#)

Background: In FFY 2006, CMS implemented redefined labor market areas, called Core-based Statistical Areas (CBSAs). CMS provided a phase-in to the SNF PPS for FFY 2006 using a blend of 50% of wage index values under the FFY 2006 Metropolitan Statistical Area and 50% of wage index values under the FFY 2006 CBSAs. In FFY 2007, CMS fully implemented the new labor market definitions using the CBSA-based wage index values.

In applying wage indexes under the CBSAs, the resulting aggregate nationwide payment is estimated to be less in FFY 2008 than the aggregate nationwide payment made in FFY 2007. As a result, in FFY 2008, CMS is proposing a budget-neutrality adjustment of 1.0003.

CMS Proposal: *“Since the inception of a PPS for SNFs, we have used hospital wage data in developing a wage index to be applied to SNFs. We propose to continue that practice for FY 2008, as we continue to believe that in the absence of SNF-specific wage data, using the hospital inpatient wage data is appropriate and reasonable for the SNF PPS.”*

However, the SNF PPS wage index values do not include the occupational mix adjustment, since that adjustment was designed to reflect occupational categories within the hospital setting only.

For FFY 2008, based on the new marketbasket methodology, CMS has proposed the labor-related portion of the federal rate to be 73.757%.

Unadjusted Federal Rates

[\(Federal Register page 25531\)](#)

CMS has proposed the following unadjusted federal rates for FFY 2008:

Area	Nursing Case Mix	Therapy Case Mix	Therapy Non-Case Mix	Non-Case Mix
Urban	\$146.77	\$110.55	\$14.56	\$74.90
Rural	\$140.22	\$127.48	\$15.55	\$76.29

All components reflect the 3.3% marketbasket.

Calculation of Payment Amount

The following table provides an example of the computation of the 53 RUGs III categories adjusted PPS rates for a SNF in a sample wage area, effective October 1, 2007.

RUGs Group	Labor Portion	Wage Index	Adjusted Labor	Non-Labor Portion	Adjusted Rate	Percent Adjustment	Adjusted Amount	Medicare Days	Payment
Rehabilitation Very High Plus Extensive Services Category (RVX)	336.93	0.8589	289.39	119.88	409.27	N/A	409.27	30	\$12,278
Rehabilitation High Category (RHA)	233.65	0.8589	200.68	83.13	283.81	N/A	283.81	30	\$8,514
Clinically Complex 2 Category (CC2)	198.05	0.8589	170.11	70.47	240.58	128%*	548.52	30	\$16,456
Rehabilitation Low Plus Extensive Services Category (RLX)	232.12	0.8589	199.37	82.59	281.96	N/A	281.96	30	\$8,459
Impaired Cognition 2 Category (IA2)	132.02	0.8589	113.39	46.97	160.36	N/A	160.36	30	\$4,810
TOTAL								150	\$50,517
* Represents 128% add-on for AIDS residents as mandated by section 511 of the MMA.									

III. Consolidated Billing

Refer to “**Consolidated Billing**” if you submit a comment on this issue.

([Federal Register pages 25555 – 25556](#))

Background: Since the establishment of consolidated billing for SNFs under the Balanced Budget Act (BBA), a number of modifications have been enacted by legislation and implemented. Recently, consolidated billing was amended by section 410 of the MMA that excluded certain practitioner and other services furnished to SNF residents by rural health clinics and federally-qualified health centers. Since CMS’ proposed rule for FFY 2005 and the issuance of Program Transmittal #390 (Change Request #3575) in 2004 outlining that change, Congress has enacted no further legislation addressing consolidated billing requirements for SNFs.

CMS Proposal: CMS is proposing no new changes to consolidated billing requirements.

Consolidated Billing Exclusions

Section 103 of the Balanced Budget Refinement Act of 1999 (BBRA) identified for exclusion from consolidated billing a number of particular service codes within four specified categories (chemotherapy items, chemotherapy administration services, radioisotope services, and customized prosthetic devices).

CMS invites public comments that identify codes in any of these four service categories representing recent medical advances that might meet the criteria for exclusion from SNF consolidated billing.

IV. OTHER ISSUES

Skilled Level of Care

Refer to **“Background”** if you submit a comment on this issue.

(Federal Register pages 25539 - 25540)

For FFY 2008, CMS is proposing to continue its designation of the upper 35 groups for the RUG-53 classifications as administrative presumption of the SNF level of care. More specifically, CMS for purposes of this administrative presumption refers to the following RUG-53 classifications: “. . . *All groups within the Rehabilitation plus Extensive Services category; all groups within the Ultra High Rehabilitation category; all groups within the Very High Rehabilitation category; all groups within the High Rehabilitation category; all groups within the Medium Rehabilitation category; all groups within the Low Rehabilitation category; all groups within the Extensive Services category; all groups within the Special Care category; and, all groups within the Clinically Complex category.*”

Furthermore, an administrative presumption will continue to be applied to a beneficiary who is correctly assigned to one of the upper 35 RUG-53 groups upon completion of the initial five-day, Medicare required Minimum Data Set assessment.

Table 1 (effective October 1, 2007)
Case-Mix Adjusted Federal Rates and Associated Indices
Urban

RUG III Category	Nursing Index	Therapy Index	Nursing Component	Therapy Component	Therapy Non-Case Mix Component	Non-Case Mix Component	Subtotal
RUX	1.90	2.25	\$278.86	\$248.74		\$74.90	\$602.50
RUL	1.40	2.25	\$205.48	\$248.74		\$74.90	\$529.12
RVX	1.54	1.41	\$226.03	\$155.88		\$74.90	\$456.81
RVL	1.33	1.41	\$195.20	\$155.88		\$74.90	\$425.98
RHX	1.42	0.94	\$208.41	\$103.92		\$74.90	\$387.23
RHL	1.37	0.94	\$201.07	\$103.92		\$74.90	\$379.89
RMX	1.93	0.77	\$283.27	\$85.12		\$74.90	\$443.29
RML	1.68	0.77	\$246.57	\$85.12		\$74.90	\$406.59
RLX	1.31	0.43	\$192.27	\$47.54		\$74.90	\$314.71
RUC	1.28	2.25	\$187.87	\$248.74		\$74.90	\$511.51
RUB	0.99	2.25	\$145.30	\$248.74		\$74.90	\$468.94
RUA	0.84	2.25	\$123.29	\$248.74		\$74.90	\$446.93
RVC	1.23	1.41	\$180.53	\$155.88		\$74.90	\$411.31
RVB	1.09	1.41	\$159.98	\$155.88		\$74.90	\$390.76
RVA	0.82	1.41	\$120.35	\$155.88		\$74.90	\$351.13
RHC	1.22	0.94	\$179.06	\$103.92		\$74.90	\$357.88
RHB	1.11	0.94	\$162.91	\$103.92		\$74.90	\$341.73
RHA	0.94	0.94	\$137.96	\$103.92		\$74.90	\$316.78
RMC	1.15	0.77	\$168.79	\$85.12		\$74.90	\$328.81
RMB	1.09	0.77	\$159.98	\$85.12		\$74.90	\$320.00
RMA	1.04	0.77	\$152.64	\$85.12		\$74.90	\$312.66
RLB	1.14	0.43	\$167.32	\$47.54		\$74.90	\$289.76
RLA	0.85	0.43	\$124.75	\$47.54		\$74.90	\$247.19
SE3	1.86	-	\$272.99		\$14.56	\$74.90	\$362.45
SE2	1.49	-	\$218.69		\$14.56	\$74.90	\$308.15
SE1	1.26	-	\$184.93		\$14.56	\$74.90	\$274.39
SSC	1.23	-	\$180.53		\$14.56	\$74.90	\$269.99
SSB	1.13	-	\$165.85		\$14.56	\$74.90	\$255.31
SSA	1.10	-	\$161.45		\$14.56	\$74.90	\$250.91
CC2	1.22	-	\$179.06		\$14.56	\$74.90	\$268.52
CC1	1.06	-	\$155.58		\$14.56	\$74.90	\$245.04
CB2	0.98	-	\$143.83		\$14.56	\$74.90	\$233.29
CB1	0.91	-	\$133.56		\$14.56	\$74.90	\$223.02
CA2	0.90	-	\$132.09		\$14.56	\$74.90	\$221.55
CA1	0.80	-	\$117.42		\$14.56	\$74.90	\$206.88
IB2	0.74	-	\$108.61		\$14.56	\$74.90	\$198.07
IB1	0.72	-	\$105.67		\$14.56	\$74.90	\$195.13
IA2	0.61	-	\$89.53		\$14.56	\$74.90	\$178.99
IA1	0.56	-	\$82.19		\$14.56	\$74.90	\$171.65
BB2	0.73	-	\$107.14		\$14.56	\$74.90	\$196.60
BB1	0.69	-	\$101.27		\$14.56	\$74.90	\$190.73
BA2	0.60	-	\$88.06		\$14.56	\$74.90	\$177.52
BA1	0.52	-	\$76.32		\$14.56	\$74.90	\$165.78
PE2	0.85	-	\$124.75		\$14.56	\$74.90	\$214.21
PE1	0.82	-	\$120.35		\$14.56	\$74.90	\$209.81
PD2	0.78	-	\$114.48		\$14.56	\$74.90	\$203.94
PD1	0.76	-	\$111.55		\$14.56	\$74.90	\$201.01
PC2	0.71	-	\$104.21		\$14.56	\$74.90	\$193.67
PC1	0.69	-	\$101.27		\$14.56	\$74.90	\$190.73
PB2	0.55	-	\$80.72		\$14.56	\$74.90	\$170.18
PB1	0.54	-	\$79.26		\$14.56	\$74.90	\$168.72
PA2	0.53	-	\$77.79		\$14.56	\$74.90	\$167.25
PA1	0.50	-	\$73.39		\$14.56	\$74.90	\$162.85

Table 2 (effective October 1, 2007)

Case-Mix Adjusted Federal Rates and Associated Indices
Rural

RUG III Category	Nursing Index	Therapy Index	Nursing Component	Therapy Component	Therapy Non-Case Mix Component	Non-Case Mix Component	Subtotal
RUX	1.90	2.25	\$266.42	\$286.83		\$76.29	\$629.54
RUL	1.40	2.25	\$196.31	\$286.83		\$76.29	\$559.43
RVX	1.54	1.41	\$215.94	\$179.75		\$76.29	\$471.98
RVL	1.33	1.41	\$186.49	\$179.75		\$76.29	\$442.53
RHX	1.42	0.94	\$199.11	\$119.83		\$76.29	\$395.23
RHL	1.37	0.94	\$192.10	\$119.83		\$76.29	\$388.22
RMX	1.93	0.77	\$270.62	\$98.16		\$76.29	\$445.07
RML	1.68	0.77	\$235.57	\$98.16		\$76.29	\$410.02
RLX	1.31	0.43	\$183.69	\$54.82		\$76.29	\$314.80
RUC	1.28	2.25	\$179.48	\$286.83		\$76.29	\$542.60
RUB	0.99	2.25	\$138.82	\$286.83		\$76.29	\$501.94
RUA	0.84	2.25	\$117.78	\$286.83		\$76.29	\$480.90
RVC	1.23	1.41	\$172.47	\$179.75		\$76.29	\$428.51
RVB	1.09	1.41	\$152.84	\$179.75		\$76.29	\$408.88
RVA	0.82	1.41	\$114.98	\$179.75		\$76.29	\$371.02
RHC	1.22	0.94	\$171.07	\$119.83		\$76.29	\$367.19
RHB	1.11	0.94	\$155.64	\$119.83		\$76.29	\$351.76
RHA	0.94	0.94	\$131.81	\$119.83		\$76.29	\$327.93
RMC	1.15	0.77	\$161.25	\$98.16		\$76.29	\$335.70
RMB	1.09	0.77	\$152.84	\$98.16		\$76.29	\$327.29
RMA	1.04	0.77	\$145.83	\$98.16		\$76.29	\$320.28
RLB	1.14	0.43	\$159.85	\$54.82		\$76.29	\$290.96
RLA	0.85	0.43	\$119.19	\$54.82		\$76.29	\$250.30
SE3	1.86	-	\$260.81		\$15.55	\$76.29	\$352.65
SE2	1.49	-	\$208.93		\$15.55	\$76.29	\$300.77
SE1	1.26	-	\$176.68		\$15.55	\$76.29	\$268.52
SSC	1.23	-	\$172.47		\$15.55	\$76.29	\$264.31
SSB	1.13	-	\$158.45		\$15.55	\$76.29	\$250.29
SSA	1.10	-	\$154.24		\$15.55	\$76.29	\$246.08
CC2	1.22	-	\$171.07		\$15.55	\$76.29	\$262.91
CC1	1.06	-	\$148.63		\$15.55	\$76.29	\$240.47
CB2	0.98	-	\$137.42		\$15.55	\$76.29	\$229.26
CB1	0.91	-	\$127.60		\$15.55	\$76.29	\$219.44
CA2	0.90	-	\$126.20		\$15.55	\$76.29	\$218.04
CA1	0.80	-	\$112.18		\$15.55	\$76.29	\$204.02
IB2	0.74	-	\$103.76		\$15.55	\$76.29	\$195.60
IB1	0.72	-	\$100.96		\$15.55	\$76.29	\$192.80
IA2	0.61	-	\$85.53		\$15.55	\$76.29	\$177.37
IA1	0.56	-	\$78.52		\$15.55	\$76.29	\$170.36
BB2	0.73	-	\$102.36		\$15.55	\$76.29	\$194.20
BB1	0.69	-	\$96.75		\$15.55	\$76.29	\$188.59
BA2	0.60	-	\$84.13		\$15.55	\$76.29	\$175.97
BA1	0.52	-	\$72.91		\$15.55	\$76.29	\$164.75
PE2	0.85	-	\$119.19		\$15.55	\$76.29	\$211.03
PE1	0.82	-	\$114.98		\$15.55	\$76.29	\$206.82
PD2	0.78	-	\$109.37		\$15.55	\$76.29	\$201.21
PD1	0.76	-	\$106.57		\$15.55	\$76.29	\$198.41
PC2	0.71	-	\$99.56		\$15.55	\$76.29	\$191.40
PC1	0.69	-	\$96.75		\$15.55	\$76.29	\$188.59
PB2	0.55	-	\$77.12		\$15.55	\$76.29	\$168.96
PB1	0.54	-	\$75.72		\$15.55	\$76.29	\$167.56
PA2	0.53	-	\$74.32		\$15.55	\$76.29	\$166.16
PA1	0.50	-	\$70.11		\$15.55	\$76.29	\$161.95