

(c) Any person seeking an exemption under this provision, shall file a petition for declaratory order pursuant to § 385.207(a) of this chapter justifying its request for exemption. Any person seeking such an exemption shall bear the burden of demonstrating that such an exemption is warranted.

§ 366.4 Allocation of costs for non-power goods and services.

(a) For purposes of this section, the term “public utility” has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e) (2000)).

(b) *Commission review.* In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a state commission having jurisdiction over the public utility, the Commission shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company. Such election to have the Commission review and authorize cost allocations shall remain in effect until further Commission order.

(c) *Exemptions.* Any company in a single-state holding company system is exempt from paragraph (b) of this section. A holding company system or state commission may, pursuant to this subsection, seek a Commission determination regarding single-state holding company system status by filing a petition for declaratory order pursuant to Rule 207(a) of the Commission’s Rules of Practice and Procedure (§ 385.207(a) of this chapter).

Furthermore, any holding company system or state commission seeking such a determination shall bear the burden of demonstrating that such determination is warranted.

(d) *Other classes of transactions.* Either upon petition for declaratory

order or upon its own motion, the Commission may exclude from the scope of Commission review and authorization under paragraph (b) of this section any class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility. Any holding company system or state commission seeking to obtain such a determination under this subsection shall file a petition for declaratory order pursuant to Rule 207(a) of the Commission’s Rules of Practice and Procedure justifying its request for exemption (§ 385.207(a) of this chapter). Furthermore, any holding company system or state commission seeking such an exemption shall bear the burden of demonstrating that such determination is warranted.

(e) Nothing in paragraphs (b)–(d) of this section shall affect the authority of the Commission under the Federal Power Act (16 U.S.C. 791 *et seq.* (2000)), the Natural Gas Act (15 U.S.C. 717 *et seq.* (2000)), or other applicable law, including the authority of the Commission with respect to rates, charges, classifications, rules, regulations, practices, contracts, facilities, and services.

§ 366.5 Previously authorized activities.

Unless otherwise provided by Commission rule or order, a person may continue to engage in activities or transactions authorized under the Public Utility Holding Company Act of 2005 prior to the date of enactment of Energy Policy Act of 2005, August 8, 2005, for the period of time provided in such authorization, so long as that person continues to comply with the terms of such authorization. If any such activities or transactions are challenged in a formal Commission proceeding, the person claiming prior authorization shall be required to provide the full text of any such authorization (whether by rule, order, or letter) and the application(s) or pleading(s) underlying

such authorization (whether by rule, order, or letter).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 447 and 455

[CMS–2198–CN]

RIN 0938–AN09

Medicaid Program; Disproportionate Share Hospital Payments

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

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a technical error that appeared in the proposed rule published in the **Federal Register** on August 26, 2005 entitled “Medicaid Program; Disproportionate Share Hospital Payments.”

FOR FURTHER INFORMATION CONTACT: Jim Frizzera, (410) 786–9535.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 05–16974 of August 26, 2005 (70 FR 50262), we inadvertently omitted a sample Excel spreadsheet that displays the reporting requirements described in section III.A. of the proposed rule.

II. Correction of Errors

In FR Doc. 05–16974 of August 26, 2005 (70 FR 50262), we are making the following correction:

On page 50264, third column, after the first full paragraph, add the following Excel spreadsheet:

BILLING CODE 4120–01–P

