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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1410-CN]

#### 42 CFR Part 483

RIN 0938-AP46

#### Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** (74 FR 40288) on August 11, 2009 entitled, "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2010; Minimum Data Set, Version 3.0 for Skilled Nursing Facilities and Medicaid Nursing Facilities."

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

**FOR FURTHER INFORMATION CONTACT:** Bill Ullman, (410) 786-5667.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. E9-18662 of August 11, 2009 (74 FR 40288), there were three errors (two typographical errors and a technical error in the wage index values) that we are identifying and correcting in section III—"Correction of Errors". The corrections in this notice are effective as if they were included in the final rule published on August 11, 2009. Accordingly, the corrections are effective October 1, 2009.

##### II. Summary of Errors

In the August 11, 2009 final rule, we made two typographical errors in the preamble that resulted in an incorrect date being cited. First, on page 40293, we stated that the "\* \* \* final rule sets forth a schedule of Federal prospective payment rates applicable to Medicare Part A SNF services beginning October 1, 2010." We are correcting the date that appears in this sentence so that it correctly reads "October 1, 2009"

consistent with Tables 2 and 3 ("FY 2010 Unadjusted Federal Rate Per Diem Urban" and "FY 2010 Unadjusted Federal Rate Per Diem Rural"), and with the fiscal year (FY) 2010 effective date for the Federal rates specified throughout the preamble. In addition, on page 40297, we made a typographical error resulting in an incorrect date being cited in describing the prospective nature of the recalibration of the case-mix weights. The purpose of the paragraph where the date appears is to explain that in order to avoid possible negative consequences, the recalibration of the case-mix weights is being implemented on a prospective basis only, and does not include a retroactive recoupment of any overpayments already made. We are correcting the date that appears in the preamble, so that it correctly reads "October 1, 2009" rather than "October 1, 2010", consistent with the FY 2010 effective date specified for the recalibration throughout the final rule.

In addition, in the addendum to the August 11, 2009 final rule, we are revising an entry in Table B: "FY 2010 Wage Index Based on CBSA Labor Market Areas for Rural Areas" in order to correct a technical error arising from the revision of wage data for two inpatient prospective payment system (IPPS) providers. We inadvertently excluded the wage data for a hospital that should have been included in the wage index calculation, and included the wage data for a hospital that should have been excluded from the wage index. Accordingly, we are revising the wage index value displayed in Table B for rural California from "1.2001" to the corrected value of "1.2051". As this revision involves only a single entry in Table B, we are not republishing the table in its entirety in this notice; however, we note that the corrected version of this table is available on the SNF PPS Web site, which can be accessed online at <http://www.cms.hhs.gov/SNFPSPS/>.

##### III. Correction of Errors

In FR Doc. E9-18662 (74 FR 40288), make the following corrections:

1. On page 40293, in column 2, in the first paragraph under Section III.B.1 (Federal Prospective Payment System), in the first sentence, the date "October 1, 2010" is corrected to read "October 1, 2009".

2. On page 40297, in column 2, in the last paragraph, in the first line from the bottom, the date "October 1, 2010" is corrected to read "October 1, 2009".

3. On page 40385, in Table B, in column 3 of the table, in line 5, the

wage index "1.2001" is corrected to read "1.2051".

##### IV. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a proposed rule in the **Federal Register** to provide a period for public comment before the provisions of a rule such as this take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a notice in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in effective date if the Secretary finds, for good cause, that a 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 notice.

We find for good cause that it is unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. We are not making substantive changes to our payment methodologies or policies, but rather, are simply implementing correctly the payment methodologies and policies that we previously proposed, received comment on, and subsequently finalized. The public has already had the opportunity to comment on these payment methodologies and policies, and this correction notice is intended solely to ensure that the FY 2010 skilled nursing facility (SNF) prospective system (PPS) final rule accurately reflects them. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections into the final rule is unnecessary and contrary to the public interest.

Further, we believe a delayed effective date is unnecessary because this correction notice merely corrects inadvertent technical errors. The changes noted above do not make any substantive changes to the SNF PPS payment methodologies or policies. Moreover, we regard imposing a delay in the effective date as being contrary to the public interest. We believe that it is in the public interest for providers to receive appropriate SNF PPS payments in as timely a manner as possible and to ensure that the FY 2010 SNF PPS final rule accurately reflects our payment methodologies, payment rates, and policies. Therefore, we find good cause to waive notice and comment procedures, as well as the 30-day delay in effective date.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 16, 2009.

**Dawn L. Smalls,**

*Executive Secretary to the Department.*

[FR Doc. E9–22958 Filed 9–24–09; 8:45 am]

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## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### 45 CFR Parts 2550 and 2552

**RIN 3045–AA50**

#### Serve America Act Amendments to the National and Community Service Act of 1990 and the Domestic Volunteer Service Act of 1973

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Interim final rule with request for comments; correction.

**SUMMARY:** The Corporation for National and Community Service (the Corporation) is correcting an interim final rule implementing time-sensitive changes required by the Serve America Act to take effect on October 1, 2009, that appeared in the *Federal Register* of September 10, 2009. That document included amendments to two incorrectly listed paragraphs in two sections, and inadvertently quoted incorrect language from another. This document corrects those errors.

**DATES:** Effective October 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Amy Borgstrom, Docket Manager, Corporation for National and Community Service, (202) 606–6930, TDD (202) 606–3472. Persons with visual impairments may request this document in an alternate format.

**SUPPLEMENTARY INFORMATION:** On September 10, 2009 (74 FR 46495), the Corporation published an interim final rule which included amendments to two incorrectly listed paragraphs in 45 CFR 2550.50 and 2550.80, and inadvertently quoted incorrect language from 45 CFR 2552.82. This document corrects the interim final rule by revising the instructions for 45 CFR 2550.50, 2550.80, and 2552.82.

■ In FR Doc. 2009–21671, appearing on page 46495 in the *Federal Register* of Thursday, September 10, 2009, the following corrections are made:

#### **§ 2550.50 [Corrected]**

■ 1. On page 46507, in the second column, in instructions 38a, 38b and

38c, remove “paragraph (a)” and add “paragraph (b)” in its place.

■ 2. On page 46057, in the second column, after the section heading for § 2550.50, add five asterisks below the section heading and remove the paragraph designation “(a)” and add the paragraph designation “(b)” in its place.

#### **§ 2550.80 [Corrected]**

■ 3. On page 46057, in the second column, in instruction 39d, remove “paragraph (i)” and add “paragraph (m)” in its place.

■ 4. On page 46057, in the third column, in the 36th line, remove the paragraph designation “(i)” and add the paragraph designation “(m)” in its place.

#### **§ 2552.82 [Corrected]**

■ 5. On page 46509, in the first column, in instruction 55c, remove “mentally retarded child” and add “mentally retarded individual” in its place.

Dated: September 21, 2009.

**Frank R. Trinity,**

*General Counsel.*

[FR Doc. E9–23248 Filed 9–24–09; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 060418103–6181–02]

**RIN 0648–XR84**

#### Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 1 Quota Harvested

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure of spiny dogfish fishery.

**SUMMARY:** NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the first semi-annual quota period, May 1, 2009 - October 31, 2009, has been harvested. Therefore, effective 0001 hours, September 26, 2009, federally permitted spiny dogfish vessels may not fish for, possess, transfer, or land spiny dogfish until November 1, 2009, when the Period 2 quota becomes available. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the

quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary to prevent the fishery from exceeding its Period 1 quota and to allow for effective management of this stock.

**DATES:** Quota Period 1 for the spiny dogfish fishery is closed effective at 0001 hr local time, September 26, 2009, through 2400 hr local time October 31, 2009. Effective September 26, 2009, federally permitted dealers are also advised that they may not purchase spiny dogfish from federally permitted spiny dogfish vessels.

**FOR FURTHER INFORMATION CONTACT:** Don Frei at (978) 281–9221, or [Don.Frei@noaa.gov](mailto:Don.Frei@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Regulations governing the spiny dogfish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The commercial quota is distributed to the coastal states from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2009 fishing year is 12 million lb (5,443.11 mt) (74 FR 20230, May 1, 2009). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are intended to preclude directed fishing, and they are set at 3,000 lb (1.36 mt) for both Quota Periods 1 and 2. Quota Period 1 is allocated 6,948,000 lb (3,151.56 mt), and Quota Period 2 is allocated 5,052,000 lb (2,291.55 mt) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to Period 1 have the effect of reducing the quota available to the fishery during Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish a notification in the *Federal Register* advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.