

(ii) 100 percent of its operating cost during the first 12 month cost reporting period beginning on or after October 1, 1991.

(6) *Minimum payment level.* (i) The minimum payment level for qualifying hospitals will be 70 percent.

(ii) CMS will adjust the minimum payment level in one percentage point increments as necessary to satisfy the requirement specified in paragraph (h) of this section that total estimated payments under the exceptions process not exceed 10 percent of the total estimated capital prospective payment system payments for the same fiscal year.

(7) *Limitation on the period for exception payments.* A qualifying hospital may receive an exceptions payment for up to 10 years from the year in which it completes a project for replacement or renovation of capital assets that meets project need and project size requirements (and, if applicable, excess capacity test), provided that it completes the project no later than the end of the hospital's last cost reporting period beginning before October 1, 2001. A project is considered to be completed when the assets are put into use for patient care.

(8) *Determining a hospital's exception payment amount—(i) Cumulative comparison.* For each cost reporting period, the hospital's exception payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to the prospective payment system.

(ii) *Offsetting amounts.* Offsetting amounts are applied in the following order—(A) Any amount by which the hospital's cumulative payments exceed its cumulative minimum payment levels is deducted from the additional payment that would otherwise be payable for a cost reporting period.

(B) Any amount by which the hospital's current year Medicare inpatient operating and capital prospective payment system payments (excluding, if applicable, 75 percent of the hospital's operating prospective payment system disproportionate share payments) exceed its Medicare inpatient operating

and capital costs is deducted from the additional payment that would otherwise be payable for the cost reporting period. For purposes of calculating the offset, the costs and payments for services that are not subject to the hospital inpatient prospective payment system are excluded.

(9) *Notification requirement.* Eligible hospitals must submit documentation to the intermediary indicating the completion date of a project that meets the project need requirement under paragraph (g)(2) of this section, the project size requirement under paragraph (g)(5) of this section, and, in the case of certain urban hospitals, an excess capacity test under paragraph (g)(4) of this section, by the later of October 1, 2001 or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed.

(h) *Limit on exception payments.* Total estimated payments under the exception process may not exceed 10 percent of the total estimated capital prospective payments (exclusive of hold-harmless payments for old capital) for the same fiscal year.

[59 FR 45399, Sept. 1, 1994, as amended at 62 FR 46031, Aug. 29, 1997; 66 FR 39936, Aug. 1, 2001]

#### §412.352 Budget neutrality adjustment.

For FY 1992 through FY 1995, CMS will determine an adjustment to the hospital-specific rate and the Federal rate proportionately so that the estimated aggregate payments under this subpart for inpatient hospital capital costs each fiscal year will equal 90 percent of what CMS estimates would have been paid for capital-related costs on a reasonable cost basis under §413.130 of this chapter.

#### SPECIAL RULES FOR PUERTO RICO HOSPITALS

#### §412.370 General provisions for hospitals located in Puerto Rico.

Except as provided in §412.374, hospitals located in Puerto Rico are subject to the rules in this subpart governing the prospective payment system