

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 412, 416, 419, 475, 476, 486, and 495

[CMS-1601-CN]

RIN 0938-AR54

### Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Hospital Value-Based Purchasing Program; Organ Procurement Organizations; Quality Improvement Organizations; Electronic Health Records (EHR) Incentive Program; Provider Reimbursement Determinations and Appeals; Correction and Limited Extension of Comment Period

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

**ACTION:** Correction and limited extension of comment period for proposed rule.

**SUMMARY:** This document corrects technical errors that appeared in the proposed rule published in the **Federal Register** on July 19, 2013, entitled “Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Hospital Value-Based Purchasing Program; Organ Procurement Organizations; Quality Improvement Organizations; Electronic Health Records (EHR) Incentive Program; Provider Reimbursement Determinations and Appeals.”

This document extends the comment period for 10 days for the technical corrections set forth in this correcting document.

**DATES:** *Comment Period:* The comment period, for the technical corrections set forth in this correcting document, is extended to 5 p.m. E.S.T. on September 16, 2013.

**FOR FURTHER INFORMATION CONTACT:** Erick Chuang, (410) 786-1816.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR. Doc. 2013-16555 of July 19, 2013 (78 FR 43534), (hereinafter referred to as the CY 2014 OPPS/ASC proposed rule), there were a number of technical errors that are discussed in the Summary of Errors, and further identified and corrected in the Correction of Errors sections. The CY

2014 OPPS/ASC proposed rule proposes to revise the Medicare hospital outpatient prospective payment system (OPPS) and the Medicare ambulatory surgical center (ASC) payment system for calendar year (CY) 2014 to implement applicable statutory requirements and policy changes. In the CY 2014 OPPS/ASC proposed rule, we described proposed changes to the amounts and factors used to determine the payment rates for Medicare services paid under the OPPS and ASC payment system.

Since the publication of the CY 2014 OPPS/ASC proposed rule, we have reviewed the data on which the CY 2014 proposed OPPS and ASC payment rates were developed, and discovered that in the process of applying our established and proposed methodologies to develop the CY 2014 proposed OPPS and ASC payment rates, specific cost estimation errors occurred in the OPPS modeling process. The errors resulting from the cost modeling used to develop the CY 2014 proposed OPPS payment rates are isolated to a few specific ambulatory payment classifications (APCs). However, because the OPPS is a budget neutral payment system, there is a resulting impact on other proposed OPPS payment rates. The technical errors corrected in this document do not implicate any of the proposed methodologies or other proposed policies described in the CY 2014 OPPS/ASC proposed rule.

In the CY 2014 OPPS/ASC proposed rule, we proposed to continue our policy of basing the ASC relative payment weights and rates on APC groups and the OPPS relative payment weights, and because this document corrects technical errors related to cost modeling conducted in developing the proposed OPPS relative payment weights, the proposed CY 2014 ASC relative payment weights are being corrected. As we noted previously, the technical errors corrected in this document do not implicate any of the proposed methodologies or other proposed policies described in the CY 2014 OPPS/ASC proposed rule.

##### II. Limited Extension of Comment Period

We are extending the comment period, for the limited purpose of providing the public an opportunity to comment on the technical corrections noted in this correcting document, for an additional 10 days, to September 16, 2013.

##### III. Summary of Errors and Corrections Posted on the CMS Web Site

###### A. Outpatient Prospective Payment System Payment System Corrections

In the CY 2014 OPPS/ASC proposed rule, we announced a number of proposals that would affect the CY 2014 OPPS. One of the policy changes we proposed was a reconfiguration of how the visit APCs would be coded and paid in the CY 2014 OPPS (78 FR 43614). Separately, for the CY 2014 OPPS, we proposed to package certain clinical diagnostic laboratory tests that were previously paid to hospitals at the Clinical Lab Fee Schedule payment rates (78 FR 43572). Following the standard methodology we use to develop OPPS payment rates described in the proposed rule, we modeled the relevant data to develop the proposed new visit APCs (78 FR 43615 through 43616). Subsequently, in reviewing how the cost modeling occurred in developing the proposed new visit APCs contained in the CY 2014 OPPS/ASC proposed rule, we discovered that a programming error caused the packaged costs associated with the CY 2014 clinical diagnostic laboratory test packaging proposal to be excluded. To accurately reflect the interaction of these two CY 2014 OPPS proposed policies, in this correcting document, we have fixed this programming issue and developed proposed APC relative payment weights for the following proposed new visit APCs: 0634 (Hospital Clinic Visits), 0635 (Type A Emergency Visits), and 0636 (Type B Emergency Visits).

As a result of the proposed coding and payment changes to the visit APCs, we proposed a new composite APC 8009 (Extended Assessment and Management Composite) for the CY 2014 OPPS (78 FR 43562 through 43563). Additionally, we proposed to expand the line item trim to also include clinical diagnostic laboratory tests that did not receive payment in the claims year in our cost modeling process for the CY 2014 OPPS (78 FR 43551). Upon reviewing the cost data used to develop this proposed APC, we discovered that the line item trim was not correctly applied to the proposed new composite APC 8009 in our cost modeling process. In this correcting document, we are correctly applying the proposed line item trim for clinical diagnostic laboratory tests that did not receive payment in the claims year in estimating the costs associated with proposed new composite APC 8009.

For the CY 2014 OPPS, we proposed to recognize the CPT codes for stereotactic radiosurgery (77371, 77372,

and 77373) while no longer recognizing the G-codes that had previously been used to identify certain stereotactic radiosurgery services (G0173, G0251, G0339, and G0340) (78 FR 43593 through 43594). However, following our established and proposed methodologies, in developing the estimated costs on which the proposed CY 2014 OPPS payment rates were based, we neglected to include the data from those G-codes in calculating the proposed geometric mean costs of the stereotactic radiosurgery APCs. In this correcting document, we have included the claims data from those G-codes in calculating the proposed APC relative payment weights for the proposed stereotactic radiosurgery APCs 0066 (Level I Stereotactic Radiosurgery) and 0067 (Level II Stereotactic Radiosurgery).

In our review, we also discovered an error with the calculation of the proposed CY 2014 budget neutrality adjustment factor used to calculate the proposed CY 2014 cancer hospital payment adjustment. As noted in the CY 2014 OPPS/ASC proposed rule, the proposed CY 2014 budget neutrality adjustment factor is calculated by comparing the estimated total CY 2014 OPPS payments including the proposed CY 2014 cancer hospital payment adjustment to the estimated total CY 2014 OPPS payments using the CY 2013 cancer hospital payment adjustment. We miscalculated the proposed CY 2014 cancer hospital adjustment payment weights for purposes of this comparison when converting estimated CY 2014 cancer hospital adjustment payments into payment weights. Correctly developing this proposed CY 2014 cancer hospital adjustment payment weight for this comparison requires a corresponding correction to the proposed budget neutrality adjustment associated with the proposed CY 2014 cancer hospital payment adjustment from the 1.0001 published in the CY 2014 OPPS/ASC proposed rule (78 FR 43577) to 1.0003. As a result of the correction to the proposed CY 2014 cancer hospital payment adjustment for budget neutrality, the proposed CY 2014 OPPS conversion factor is also corrected in this correcting document from the \$72.728 published in the CY 2014 OPPS/ASC proposed rule (78 FR 43578) to \$72.743.

While the technical corrections described previously are generally isolated to specific APCs, because the OPPS is a budget neutral payment system, we recalculated the proposed CY 2014 budget neutral weight scaler. As discussed in the CY 2014 OPPS/ASC proposed rule, the budget neutral

weight scaler is calculated by comparing aggregate CY 2013 OPPS payment weight to unscaled aggregate CY 2014 OPPS payment weight. As a result of the technical corrections previously described, several of the estimated costs on which the proposed unscaled CY 2014 payment weights are developed require correlating corrections. Those corrections to the proposed payment weights then affect the proposed aggregate unscaled CY 2014 OPPS payment weights which are then used to determine the appropriate proposed budget neutrality adjustment. Using the corrected proposed unscaled relative payment weights, the proposed CY 2014 budget neutrality weight scaler changes from 1.2143 as originally proposed (see 78 FR 43576) to 1.3315.

As previously stated, the technical corrections discussed previously result in corrections to the proposed OPPS relative payment weights and the proposed CY 2014 OPPS conversion factor, both of which are used to calculate the proposed CY 2014 OPPS payment rates. Outlier payments are made based on the relationship between APC payments and estimated cost, so corrections to the proposed APC payment rates would affect the appropriate fixed-dollar outlier threshold applied to achieve the estimated OPPS outlier spending target of 1.0 percent (78 FR 43583 through 43584). Using the corrected proposed CY 2014 OPPS relative payment weights and conversion factor, the proposed CY 2014 OPPS/ASC fixed-dollar outlier threshold changes from \$2,775, as originally proposed (see 78 FR 43583 through 43584), to \$2,900.

We are also making technical corrections to Table 39—Estimated Impact of the Proposed CY 2014 Changes for the Hospital Outpatient Prospective Payments System (78 FR 43692) and the correlating preamble language (78 FR 43689). As noted previously, because the OPPS is a budget neutral system, and while the impact of the technical corrections discussed previously on APC payment is generally concentrated within specific APCs that were modified for significant proposals in CY 2014, there are resulting technical corrections necessary with respect to all other proposed CY 2014 OPPS payment weights and rates within the system. The corrections to this impact table (78 FR 43692) relative to the impact table originally published in the CY 2014 OPPS/ASC proposed rule correspond to the case mix of services furnished by providers and how they are affected by the technical corrections in this document.

#### *B. Ambulatory Surgical Center Payment System Corrections*

ASC payment rates are based on the OPPS relative payment weights for the majority of items and services that are provided at ASCs. Therefore, corrections to the proposed CY 2014 OPPS relative payment weights also have an impact on the proposed CY 2014 ASC relative payment weights and ASC payment rates. Due to the corrections made to the proposed CY 2014 OPPS relative payment weights, we recalculated the proposed CY 2014 budget neutral ASC weight scaler (see 78 FR 43640 and 43641). Using the proposed corrected scaled CY 2014 OPPS relative weights, the proposed CY 2014 budget neutrality ASC weight scaler changes from 0.8961, as originally proposed (78 FR 43641), to 0.9102. The corrected proposed CY 2014 ASC relative payment weights and the proposed CY 2014 budget neutral ASC weight scaler have no impact on the proposed CY 2014 ASC conversion factor.

#### *C. Summary of Errors in and Corrections to Addenda Posted on the CMS Web Site*

##### 1. Outpatient Prospective Payment System Payment System Addenda

We are making several minor technical corrections to the OPPS addenda. We are correcting the OPPS status indicators for CPT codes 93619, 93620 and 93650 to “J1” to accurately reflect our CY 2014 proposal to establish APC 0085 as a comprehensive APC. We are also correcting the displayed assignment of CPT code 33233 to APC 0106 to fix a discrepancy between our addenda and the cost statistics files we make available to the public. As a result of these corrections, Addendum A, B, C, and M will also be corrected.

To view the corrected proposed CY 2014 OPPS payment rates that result from the corrected geometric mean costs and other technical corrections, we refer readers to the Addenda and supporting files that are posted on the CMS Web site at: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/index.html>. Select “CMS-1601-CN” from the list of regulations. All corrected Addenda for this correcting document are contained in the zipped folder entitled, “2014 OPPS NPRM Addenda” at the bottom of the page for CMS-1601-CN. The corrected CY 2014 OPPS file of geometric mean costs is found under supporting documentation for CMS-1601-CN.

2. Ambulatory Surgical Center Payment System Addenda

To view the corrected proposed CY 2014 ASC payment rates that result from the corrected proposed CY 2014 ASC relative payment weights, see the ASC addenda that are posted on the CMS Web site at: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/ASC-Regulations-and-Notices.html>. Select “CMS–1601–CN” from the list of regulations. All corrected ASC addenda for this correcting document are contained in the zipped folder entitled “Addendum AA, BB, DD1, DD2, and EE” at the bottom of the page for CMS–1601–CN.

IV. Waiver of 60-Day Comment Period

We ordinarily permit a 60-day comment period on notices of proposed

rulemaking in the **Federal Register**, as provided in section 1871(b)(1) of the Act. However, this period may be shortened, as provided under section 1871(b)(2)(C) of the Act, when the Secretary finds good cause that a 60-day comment period would be impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. Because the corrections in this document do not make any changes to the substantive policies proposed in the CY 2014 OPPI/ASC proposed rule, but merely correct underlying data errors that impact certain components of the payment systems to conform to the proposed policies clearly intended in the preamble of the proposed rule, this correcting document does not constitute agency rulemaking, and therefore the 60-day comment period does not apply.

In addition, we believe it is important for the public to have the corrected information as soon as possible and find no reason to delay dissemination of it.

For the reasons stated previously, we find it both unnecessary and contrary to the public interest to undertake further notice and comment procedures with respect to this correcting document.

V. Correction of Errors

In FR Doc. 2013–16555 of July 19, 2013 (78 FR 43534), make the following corrections:

- 1. On page 43562, third column, first full paragraph, in line 4, the figure “\$1,357” is corrected to read “\$1,348”.
- 2. On page 43571,
  - a. Table 8—CY 2013 Separate Payment Versus CY 2014 Proposed Packaged Payment For MPI, the table is corrected to read as follows:

TABLE 8—CY 2013 SEPARATE PAYMENT VERSUS CY 2014 PROPOSED PACKAGED PAYMENT FOR MPI

Service or supply	CY 2013 Separate payment for MPI components	CY 2013 Separate payment for MPI components	CY 2013 Separate payment for MPI components	CY 2013 Separate payment for MPI components	CY 2014 Proposed packaged payment for MPI
78452 .....	\$680 .....	\$680 .....	\$680 .....	\$680 .....	\$1,216
93017 .....	\$177 .....	\$177 .....	\$177 .....	\$177 .....	P <sup>€</sup>
Exercise or Stress Agent <sup>Y</sup> .....	Exercise—\$0 .....	J1245–P .....	J2785–\$215 .....	J0152–\$219* .....	P
Radiopharmaceutical .....	P .....	P .....	P .....	P .....	P
Total .....	\$857 .....	\$857 .....	\$1,072 .....	\$1,076 .....	\$1,216

P = Packaged.  
 € The stress test described by CPT code 93017 is proposed to be conditionally packaged as a result of the proposal described below to conditionally package ancillary services.  
 Y April 2013 ASP Drug Pricing File.  
 \* 70 kg patient.

- b. First column, first paragraph, in line 4, the figure “14” is corrected to read “12”.
- 3. On page 43576, third column, second full paragraph, in line 17, the figure “1.2143” is corrected to read “1.3315”.
- 4. On page 43577, third column, third full paragraph, in line 27, the figure “1.0001” is corrected to read “1.0003”.
- 5. On page 43578,
  - a. First column,
    - (1) First full paragraph,
      - (a) In line 13, the figure “1.0001” is corrected to read “1.0003”.
      - (b) In line 18, the figure “\$72.728” is corrected to read “\$72.743”.
    - (2) Second full paragraph, in line 34, the figure “\$71.273” is corrected to read “\$71.288”.
  - b. Second column, first paragraph,
    - (1) In line 3, the figure “\$72.728” is corrected to read “\$72.743”.
    - (2) In line 16, the figure “\$71.273” is corrected to read “\$71.288”.
- 6. On page 43584,
  - a. First column, under the heading “2. Proposed Outlier Calculation”, second

- paragraph, in line 11, the figure “\$2,775” is corrected to read “\$2,900”.
- b. Third column, first partial paragraph,
  - (1) In line 8, the figure “\$2,775” is corrected to read “\$2,900”.
  - (2) In line 21, the figure “\$2,775” is corrected to read “\$2,900”.
- 7. On page 43586,
  - a. First column, in the fourth full paragraph,
    - (1) In line 17, the figure “\$345.75” is corrected to read “\$340.56”.
    - (2) In line 21, the figure “\$338.84” is corrected to read “\$333.75”.
    - (3) In line 30, the figure “\$272.96” is corrected to read “\$268.87” and the figure “\$345.75” is corrected to read “\$340.56”.
    - (4) In line 33, the figure “\$267.51” is corrected to read “\$263.49”.
    - (5) In line 34, the figure “\$338.84” is corrected to read “\$333.75”.
    - (6) In line 37, the figure “\$138.30” is corrected to read “\$133.50” and “\$345.75” is corrected to read “\$340.56”.

- b. Second column, first partial paragraph,
  - (1) In line 2, the figure “\$135.54” is corrected to read “\$133.50”.
  - (2) In line 3, the figure “\$338.84” is corrected to read “\$333.75”.
  - (3) In line 6, the figure “\$411.26” is corrected to read “\$405.09” and “\$272.96” is corrected to read “\$268.87”.
  - (4) In line 7, the figure “\$138.30” is corrected to read “\$136.22”.
  - (5) In line 9, the figure “\$403.05” is corrected to read “\$396.99” and “\$267.51” is corrected to read “\$263.49”.
  - (6) In line 10, the figure “\$135.54” is corrected to read “\$133.50”.
- c. Third column, under the heading “3. Proposed Calculation of an Adjusted Copayment Amount for an APC Group”, second full paragraph,
  - (1) In line 6, the figure “\$69.15” is corrected to read “\$68.12”.
  - (2) In line 8, the figure “\$345.75” is corrected to read “\$340.56”.
- 8. On page 43590, Table 14—New Category III CPT Codes Implemented In

July 2013, the fifth column titled, "Proposed CY 2014 Payment Rate" is corrected to read as follows:

TABLE 14—NEW CATEGORY III CPT CODES IMPLEMENTED IN JULY 2013

CY 2013 CPT Code	CY 2013 Long descriptor	Proposed CY 2014 status indicator	Proposed CY 2014 APC	Proposed CY 2014 payment rate
0329T .....	Monitoring of intraocular pressure for 24 hours or longer, unilateral or bilateral, with interpretation and report.	E	N/A	N/A
0330T .....	Tear film imaging, unilateral or bilateral, with interpretation and report .....	S	0230	\$51.05
0331T .....	Myocardial sympathetic innervation imaging, planar qualitative and quantitative assessment.	S	0398	391.36
0332T .....	Myocardial sympathetic innervation imaging, planar qualitative and quantitative assessment; with tomographic SPECT.	S	0398	391.36
0333T .....	Visual evoked potential, screening of visual acuity, automated .....	E	N/A	N/A
0334T .....	Sacroiliac joint stabilization for arthrodesis, percutaneous or minimally invasive (indirect visualization), includes obtaining and applying autograft or allograft (structural or morselized), when performed, includes image guidance when performed (that is, CT or fluoroscopic).	T	0208	4,108.96

■ 9. On page 43630, Table 34—New Surgical Procedures or Covered Ancillary Services Implemented in July 2013, the table is corrected to read as follows:

TABLE 34—NEW LEVEL II HCPCS CODES FOR COVERED SURGICAL PROCEDURES OR COVERED ANCILLARY SERVICES IMPLEMENTED IN JULY 2013

CY 2013 HCPCS Code	CY 2013 Long descriptor	Proposed CY 2014 payment indicator	Proposed CY 2014 payment rate
C9131 .....	Injection, ado-trastuzumab emtansine, 1 mg .....	K2	\$29.40
C9736 .....	Laparoscopy, surgical, radiofrequency ablation of uterine fibroid(s), including intraoperative guidance and monitoring, when performed.	G2	2,010.57
Q2033 .....	Influenza Vaccine, Recombinant Hemagglutinin Antigens, for Intramuscular Use (Flublok) .....	L1	N/A
Q2050 * .....	Injection, Doxorubicin Hydrochloride, Liposomal, Not Otherwise Specified, 10 mg .....	K2	545.44
Q2051 * .....	Injection, Zoledronic Acid, Not Otherwise Specified, 1 mg .....	K2	196.42

\* Note: HCPCS code Q2050 replaced code J9002 and HCPCS code Q2051 replaced HCPCS codes J3487 and J3488 beginning July 1, 2013.

■ 10. On page 43631, Table 35—New Services, the table is corrected to read as follows:

TABLE 35—NEW CATEGORY III CPT CODES IMPLEMENTED IN JULY 2013 AS ASC COVERED ANCILLARY SERVICES

CY 2013 CPT Code	CY 2013 Long descriptor	Proposed CY 2014 payment indicator	Proposed CY 2014 payment rate
0331T .....	Myocardial sympathetic innervation imaging, planar qualitative and quantitative assessment	Z2	\$212.14
0332T .....	Myocardial sympathetic innervation imaging, planar qualitative and quantitative assessment; with tomographic SPECT.	Z2	\$212.14

■ 11. On page 43641, first column, first partial paragraph, in line 12, the figure "0.8961" is corrected to read "0.9102".

■ 12. On page 43652, third column, first partial paragraph,

■ a. In line 6, the figure "\$71.273" is corrected to read "\$71.288".

■ b. In line 7, the figure "\$72.728" is corrected to read "\$72.743".

■ 13. On pages 43692 through 43693, Table 39—Estimated Impact of the

Proposed CY 2014 Changes for the Hospital Outpatient Prospective Payment System, the table is corrected to read as follows:

TABLE 39—ESTIMATED IMPACT OF THE PROPOSED CY 2014 CHANGES FOR THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM

	Number of hospitals	APC recalibration (all changes) (%)	New wage index and provider adjustments (%)	Combined cols 2,3 with market basket update	Column 4 with frontier wage index adjustment (%)	All proposed changes (%)
	(1)	(2)	(3)	(4)	(5)	(6)
ALL FACILITIES* .....	3,953	0.0	0.0	1.8	1.9	1.8
ALL HOSPITALS .....	3,791	0.0	0.0	1.8	1.9	1.8
(excludes hospitals per- manently held harmless and CMHCs)						
URBAN HOSPITALS .....	2,859	0.0	0.0	1.9	2.0	1.9
LARGE URBAN (GT 1 MILL.) .....	1,566	0.3	0.2	2.3	2.3	2.3
OTHER URBAN (LE 1 MILL.) .....	1,293	-0.3	-0.1	1.4	1.7	1.5
RURAL HOSPITALS .....	932	-0.3	-0.3	1.3	1.5	1.4
SOLE COMMUNITY .....	389	0.3	-0.3	1.9	2.3	1.9
OTHER RURAL .....	543	-0.8	-0.2	0.8	0.9	0.8
BEDS (URBAN)						
0-99 BEDS .....	959	0.1	0.1	1.9	2.1	2.0
100-199 BEDS .....	831	-0.2	-0.1	1.5	1.6	1.6
200-299 BEDS .....	454	-0.4	0.0	1.4	1.6	1.5
300-499 BEDS .....	407	0.1	0.0	1.9	2.1	2.0
500 + BEDS .....	208	0.4	0.2	2.4	2.4	2.4
BEDS (RURAL)						
0-49 BEDS .....	352	-0.7	-0.6	0.6	0.8	0.6
50-100 BEDS .....	342	0.4	-0.1	2.1	2.4	2.2
101-149 BEDS .....	133	-0.6	-0.5	0.8	1.0	0.9
150-199 BEDS .....	61	-1.0	-0.1	0.7	1.1	0.7
200 + BEDS .....	44	-0.3	-0.2	1.3	1.3	1.5
VOLUME (URBAN)						
LT 5,000 Lines .....	485	-0.5	0.2	1.5	1.7	1.6
5,000-10,999 Lines ..	109	0.3	-0.1	1.9	2.4	1.4
11,000-20,999 Lines	132	0.1	0.0	1.9	2.1	1.9
21,000-42,999 Lines	262	-0.1	-0.2	1.5	1.6	1.6
42,999-89,999 Lines	517	0.2	0.1	2.1	2.1	2.1
GT 89,999 Lines .....	1,354	0.0	0.0	1.9	2.0	1.9
VOLUME (RURAL)						
LT 5,000 Lines .....	31	0.1	-0.4	1.5	6.1	1.6
5,000-10,999 Lines ..	34	2.1	-0.5	3.3	3.4	3.4
11,000-20,999 Lines	67	1.8	-0.7	2.8	3.0	2.7
21,000-42,999 Lines	182	0.8	-0.3	2.3	2.9	2.2
GT 42,999 Lines .....	618	-0.4	-0.2	1.2	1.4	1.3
REGION (URBAN)						
NEW ENGLAND .....	150	1.1	0.6	3.5	3.5	3.4
MIDDLE ATLANTIC ..	342	0.2	0.7	2.7	2.7	2.7
SOUTH ATLANTIC ...	432	-0.5	-0.3	1.0	1.0	1.1
EAST NORTH CENT.	459	-0.1	-0.2	1.5	1.5	1.5
EAST SOUTH CENT.	172	-0.5	-0.3	1.0	1.0	1.1
WEST NORTH CENT. ....	193	1.7	-0.3	3.1	4.3	3.3
WEST SOUTH CENT. ....	487	-1.1	-0.2	0.6	0.6	0.7
MOUNTAIN .....	194	0.5	-0.3	2.0	2.3	2.0
PACIFIC .....	385	0.3	0.6	2.7	2.7	2.6
PUERTO RICO .....	45	4.2	0.6	6.6	6.6	7.0
REGION (RURAL)						
NEW ENGLAND .....	25	2.7	0.6	5.1	5.1	5.0
MIDDLE ATLANTIC ..	68	-1.3	-0.3	0.3	0.3	0.3
SOUTH ATLANTIC ...	158	-1.0	-0.4	0.4	0.4	0.5
EAST NORTH CENT.	124	-0.9	-0.4	0.5	0.5	0.6
EAST SOUTH CENT.	170	-0.9	-0.6	0.3	0.3	0.5
WEST NORTH CENT. ....	99	1.0	-0.1	2.7	3.9	2.8
WEST SOUTH CENT. ....	196	-0.7	-0.4	0.7	0.8	0.9
MOUNTAIN .....	63	0.4	0.2	2.5	4.0	2.0
PACIFIC .....	29	2.4	0.7	4.9	5.0	5.0
TEACHING STATUS						
NON-TEACHING .....	2,792	-0.5	-0.1	1.2	1.3	1.3
MINOR .....	686	-0.2	0.0	1.6	1.9	1.7

TABLE 39—ESTIMATED IMPACT OF THE PROPOSED CY 2014 CHANGES FOR THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM—Continued

	Number of hospitals	APC recalibration (all changes) (%)	New wage index and provider adjustments (%)	Combined cols 2,3 with market basket update	Column 4 with frontier wage index adjustment (%)	All proposed changes (%)
	(1)	(2)	(3)	(4)	(5)	(6)
MAJOR .....	313	1.2	0.2	3.2	3.2	3.1
DSH PATIENT PERCENT						
0 .....	12	-1.3	-0.1	0.4	0.4	0.2
GT 0-0.10 .....	349	0.1	0.1	2.0	2.1	2.0
0.10-0.16 .....	334	0.0	0.1	1.9	2.1	2.0
0.16-0.23 .....	680	0.0	0.0	1.8	2.0	1.9
0.23-0.35 .....	1,045	0.0	0.0	1.8	1.9	1.8
GE 0.35 .....	831	-0.1	0.0	1.7	1.7	1.7
DSH NOT AVAIL-ABLE** .....	540	1.7	0.0	3.5	3.5	3.2
URBAN TEACHING/DSH						
TEACHING & DSH ...	909	0.4	0.1	2.3	2.5	2.3
NO TEACHING/DSH	1,429	-0.6	0.0	1.2	1.3	1.3
NO TEACHING/NO DSH .....	12	-1.3	-0.1	0.4	0.4	0.2
DSH NOT AVAIL-ABLE** .....	509	1.6	0.1	3.5	3.6	3.2
TYPE OF OWNERSHIP						
VOLUNTARY .....	2,004	0.1	0.1	2.0	2.2	2.1
PROPRIETARY .....	1,250	-0.5	-0.1	1.2	1.3	1.2
GOVERNMENT .....	537	-0.3	-0.2	1.3	1.3	1.4
CMHCs .....	100	-7.1	-0.2	-5.6	-5.5	-5.2

Column (1) shows total hospitals and/or CMHCs.

Column (2) includes all CY 2014 OPPS proposals and compares those to the CY 2013 OPPS (which includes outpatient lab services previously paid at CLFS rates).

Column (3) shows the budget neutral impact of updating the wage index by applying the FY 2014 hospital inpatient wage index. The proposed rural adjustment continues our current policy of 7.1 percent so the budget neutrality factor is 1. Similarly, the differential in estimated cancer hospital payments for the proposed adjustment is minimal and thus results in a budget neutrality factor of 1.0003.

Column (4) shows the impact of all budget neutrality adjustments and the proposed addition of the 1.8 percent OPD fee schedule update factor (2.5 percent reduced by 0.4 percentage points for the proposed productivity adjustment and further reduced by 0.3 percentage point in order to satisfy statutory requirements set forth in the Affordable Care Act).

Column (5) shows the non-budget neutral impact of applying the frontier State wage adjustment.

Column (6) shows the additional adjustments to the conversion factor resulting from a change in the pass-through estimate, adding estimated outlier payments, and applying payment wage indexes.

\* These 3,953 providers include children and cancer hospitals, which are held harmless to pre-BBA amounts, and CMHCs. Payments for lab services at CLFS rates, which we are proposing to package in the CY 2014 OPPS, are included in the columns where appropriate.

\*\* Complete DSH numbers are not available for providers that are not paid under IPPS, including rehabilitation, psychiatric, and long-term care hospitals.

■ 14. On page 43696,

■ a. First column, first full paragraph, in line 9, the figure “0.8961” is corrected to read “0.9102”.

■ b. Third column,

(1) Fourth paragraph, in line 8, the phrase “a 1 percent increase” is corrected to read “no change”.

■ (2) Fifth paragraph, in line 13, the phrase “7 percent” is corrected to read “8 percent”.

■ 15. On page 43697, Table 40—Estimated Impact of the Proposed CY 2014 Update to the ASC Payment System on Aggregate CY 2014 Medicare Program Payments by Surgical Specialty or Ancillary Items and Services Group, the table is corrected to read as follows:

TABLE 40—ESTIMATED IMPACT OF THE PROPOSED CY 2014 UPDATE TO THE ASC PAYMENT SYSTEM ON AGGREGATE CY 2014 MEDICARE PROGRAM PAYMENTS BY SURGICAL SPECIALTY OR ANCILLARY ITEMS AND SERVICES GROUP

Surgical specialty group (1)	Estimated CY 2013 ASC payments (in millions) (2)	Estimated CY 2014 percent change (3)
Total .....	\$3,625	1%
Eye and ocular adnexa .....	1,496	-3
Digestive system .....	743	8
Nervous system .....	540	0
Musculoskeletal system .....	441	-1
Genitourinary system .....	159	5
Integumentary system .....	130	8
Respiratory system .....	46	7
Cardiovascular system .....	32	-3
Ancillary items and services .....	20	-12

TABLE 40—ESTIMATED IMPACT OF THE PROPOSED CY 2014 UPDATE TO THE ASC PAYMENT SYSTEM ON AGGREGATE CY 2014 MEDICARE PROGRAM PAYMENTS BY SURGICAL SPECIALTY OR ANCILLARY ITEMS AND SERVICES GROUP—Continued

Surgical specialty group (1)	Estimated CY 2013 ASC payments (in millions) (2)	Estimated CY 2014 percent change (3)
Auditory system .....	12	4
Hematologic & lymphatic systems .....	5	17

■ 16. On pages 43697 through 43698, Proposed CY 2014 Update to the ASC for Selected Procedures, the table is Table 41—Estimated Impact of the Payment System on Aggregate Payments corrected to read as follows:

TABLE 41—ESTIMATED IMPACT OF THE PROPOSED CY 2014 UPDATE TO THE ASC PAYMENT SYSTEM ON AGGREGATE PAYMENTS FOR SELECTED PROCEDURES

CPT/HCPCS code * (1)	Short descriptor (2)	Estimated CY 2013 ASC payments (in millions) (3)	Estimated CY 2014 percent change (4)
66984 .....	Cataract surg w/iol, 1 stage .....	\$1,107	-3%
43239 .....	Upper GI endoscopy, biopsy .....	163	13
45380 .....	Colonoscopy and biopsy .....	154	7
45385 .....	Lesion removal colonoscopy .....	98	7
66982 .....	Cataract surgery, complex .....	89	-3
45378 .....	Diagnostic colonoscopy .....	80	7
64483 .....	Inj foramen epidural l/s .....	79	14
62311 .....	Inject spine l/s (cd) .....	71	14
66821 .....	After cataract laser surgery .....	59	-1
G0105 .....	Colorectal scrn; hi risk ind .....	42	1
15823 .....	Revision of upper eyelid .....	40	2
64493 .....	Inj paravert f jnt l/s 1 lev .....	40	14
63650 .....	Implant neuroelectrodes .....	39	3
G0121 .....	Colon ca scrn not hi rsk ind .....	36	1
29827 .....	Arthroscop rotator cuff repr .....	34	5
64590 .....	Insrt/redo pn/gastr stimul .....	33	4
64721 .....	Carpal tunnel surgery .....	31	-1
63685 .....	Insrt/redo spine n generator .....	31	4
64636** .....	Destroy l/s facet jnt addl .....	31	-100
29881 .....	Knee arthroscopy/surgery .....	30	-3
64635 .....	Destroy lumb/sac facet jnt .....	26	73
29880 .....	Knee arthroscopy/surgery .....	25	-3
43235 .....	Uppr gi endoscopy diagnosis .....	23	13
45384 .....	Lesion remove colonoscopy .....	22	7
52000 .....	Cystoscopy .....	21	5
62310 .....	Inject spine c/t .....	20	14
29823 .....	Shoulder arthroscopy/surgery .....	19	5
67042 .....	Vit for macular hole .....	19	0
28285 .....	Repair of hammertoe .....	18	5
50590 .....	Fragmenting of kidney stone .....	18	2

\* Note that HCPCS codes we are proposing to delete for CY 2014 are not displayed in this table.

\*\* The 100 decrease in estimated payment reflects our CY 2014 proposal to package the payment for CPT code 64636.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program); (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—

Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 4, 2013.

**Jennifer M. Cannistra,**  
Executive Secretary to the Department,  
Department of Health and Human Services.

[FR Doc. 2013-21849 Filed 9-5-13; 8:45 am]

BILLING CODE 4120-01-P

**DEPARTMENT OF TRANSPORTATION****Pipeline and Hazardous Materials Safety Administration****49 CFR Parts 173, 174, 178, 179, and 180**

[Docket No. PHMSA-2012-0082 (HM-251)]

RIN 2137-AE91

**Hazardous Materials: Rail Petitions and Recommendations To Improve the Safety of Railroad Tank Car Transportation (RRR)****AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.**ACTION:** Advance Notice of Proposed Rulemaking (ANPRM).

**SUMMARY:** PHMSA is considering revisions to the Hazardous Materials Regulations (HMR) to improve the regulations applicable to the transportation of hazardous materials by rail. The revisions are based on eight petitions received from the regulated community and four National Transportation Safety Board (NTSB) Recommendations which are referenced by a petition. In this ANPRM, we outline the petitions and NTSB recommendations, identify a preliminary estimate of costs and benefits from the petitions, pose several questions, and solicit comments and data from the public. Under Executive Order 13563, Federal agencies were asked to periodically review existing regulations. The questions posed in this ANPRM and responses by commenters will be used in conjunction with a retrospective review of existing requirements aimed to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

**DATES:** Comments must be received by November 5, 2013.**ADDRESSES:** You may submit comments identified by the docket number PHMSA-2012-0082 (HM-251) and the relevant petition number by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200

New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* To the Docket Management System; Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the agency name and docket number for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you provide. All comments received will be posted without change to the Federal Docket Management System (FDMS), including any personal information.

*Docket:* For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office located at U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE., Washington, DC 20590.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) which may be viewed at: <http://www.gpo.gov/fdsys/pkg/FR-2000-04-11/pdf/00-8505.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Karl Alexy, (202) 493-6245, Office of Safety Assurance and Compliance, Federal Railroad Administration or Ben Supko, (202) 366-8553, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590-0001.

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**I. Executive Summary**

PHMSA has received eight petitions for rulemaking and four NTSB recommendations proposing amendments to the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) applicable to the transportation of hazardous materials in commerce by rail. PHMSA is seeking public comments on whether the proposed amendments would enhance safety, revise, and clarify the HMR with regard to rail transport. Specifically, these amendments propose to: (1) Relax regulatory requirements to afford the Federal Railroad Administration (FRA) greater discretion to authorize the movement of non-conforming tank cars; (2) impose additional requirements that would correct an unsafe condition associated with pressure relief valves (PRV) on rail cars transporting carbon dioxide, refrigerated liquid; (3) relax regulatory requirements applicable to the repair and maintenance of DOT Specification 110, DOT Specification 106, and ICC 27 tank car tanks (ton tanks); (4) relax regulatory requirement for the removal of rupture discs for inspection if the removal process would damage, change, or alter the intended operation of the device; and (5) impose additional requirements that would enhance the standards for DOT Specification 111 tank cars used to transport Packing Group (PG) I and II hazardous materials. The NTSB recommendations directly relate to the enhancement of DOT Specification 111 tank cars. PHMSA looks forward to reviewing the public's comments pertaining to the potential economic,