

reference are available from the North Carolina Department of Environmental Quality, 217 West Jones Street, Raleigh, North Carolina, 27603 (physical address); 1646 Mail Service Center, Raleigh, North Carolina 27699-1646 (mailing address); Phone number: (919) 707-8200; *website*: <https://www.deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/underground-storage-tanks-rules>.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS-1810-CN]

RIN 0938-AV29

Medicare Program; FY 2025 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, and Hospice Quality Reporting Program Requirements; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule; correction.

SUMMARY: This document corrects technical and typographical errors in the final rule that appeared in the August 6, 2024 *Federal Register* titled “Medicare Program; FY 2025 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, and Hospice Quality Reporting Program Requirements”.

DATES: This correction is effective on October 1, 2024.

FOR FURTHER INFORMATION CONTACT:

For questions regarding the hospice wage index, contact Chantelle Caldwell, (410) 786-8743.

For general questions about hospice payment policy, contact the hospice mailbox at: hospicepolicy@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2024-16910 of August 6, 2024 (89 FR 64202), there were a number of technical and typographical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the final rule that appeared in the August 6, 2024 *Federal Register*. Accordingly, the corrections are effective October 1, 2024.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 64207, we made a typographical error in the reported core-based statistical area (CBSA) name and wage index value for CBSA 25980, Hinesville, Georgia. We reported the CBSA name as Hinesville-Fort Stewart, Georgia instead of Hinesville, Georgia, and the FY 2025 hospice wage index value as 0.8872, instead of 0.8886.

On page 64210, in Table 3, titled “Urban Counties that Would Change to Rural Status”, we inadvertently omitted FIPS county 09015 Windham County from the list of counties that were previously urban but would gain rural status beginning in FY 2025. Table 3 contains the FIPS codes, county name, current CBSA number and name of the counties that will gain rural status in FY 2025. Windham County was previously designated in CBSA 49340 Worcester, MA-CT. However, beginning in FY 2025 this county is redesignated into rural Connecticut (rural area 99907). Accordingly, we are adding FIPS 09015 Windham County to the list of counties that will gain rural status beginning in FY 2025. We also reported a total of 53 counties and county equivalents that are currently considered urban that would be considered rural beginning in FY 2025. Therefore, with the addition of Windham County to the list, we are correcting that number to 54 counties and county equivalents.

Windham County is also experiencing a change to its county name beginning in FY 2025, as described in the FY 2025 hospice final rule (89 FR 64209) and will transition from FIPS county 09015 Windham County to 09150 Northeastern Connecticut planning region.

On page 64222, in Table 8, titled “Counties That Will Use a Wage Index Transition Code”, we inadvertently omitted FIPS county 09150 “Northeastern Connecticut Planning Region” from the list of counties that will use a transition code on hospice claims for FY 2025 instead of the CBSA number. Table 8 contains the FIPS codes, county name, current CBSA number and name, the redesignated FY 2025 CBSA number and name and the corresponding “500XX” transition code that must be submitted on hospice claims for FY 2025 to ensure that hospice providers who provide services in certain counties receive that county’s appropriate wage index value. The omission of the Northeastern planning region from Table 8 and the subsequent unassigned transition code for that region resulted in two wage index values being assigned to statewide rural area 99907 in the FY 2025 hospice final

wage index file located at: <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index>. However, for hospice claims processing, each CBSA or statewide rural area can have only one wage index value assigned to that CBSA or statewide rural area. Therefore, hospices that serve beneficiaries in the Northeastern Connecticut planning region must use transition code 50030, instead of the rural statewide code 99907, on hospice claims beginning in FY 2025. Accordingly, we are adding FIPS county 09150 “Northeastern Connecticut Planning Region” to the list of counties in Table 8 that will use a transition code on hospice claims for FY 2025 instead of the CBSA number.

This correction does not represent a change in policy and is consistent with the finalized transition policy outlined in the FY 2025 Hospice final rule (89 FR 64220-64224), where beginning in FY 2025, certain counties must use a 500XX transition code on hospice claims instead of the statewide rural area or CBSA code in circumstances where a county was redesignated into a new CBSA or rural area and has a different wage index than the constituent counties that make up that CBSA or rural area due to the calculation of the 5-percent cap.

On page 64239, we made a typographical error. We inadvertently included the word “Proposed” in the title of Section III.D.2, which therefore incorrectly read: “Implementation of Two Process Quality Measures Based on Proposed HOPE Data Collection”. As HOPE is finalized as of the FY 2025 final rule, it should not be referred to as “proposed”. Therefore, the title of this Section III.D.2 is corrected to read: “Implementation of Two Process Quality Measures Based on HOPE Data Collection.”

On page 64240, we made a typographical error in the sentence “CMS maintains to avoid creating unnecessary burden for hospice providers.” The sentence is corrected to read: “CMS maintains its commitment to avoid creating unnecessary burden for hospice providers.”

On page 64242, we made a typographical error in the sentence “Theses (SFVs) may be performed by RNs or LPNs/LVNs.” The sentence is corrected to read: “These SFVs may be performed by RNs or LPNs/LVNs.”

On page 64244, under the undesignated heading “Public Availability of Data Submitted”, we made two typographical errors. We stated the following: “We are finalizing the decision that the data from the first quarter Q4 CY 2025, if HOPE data

collection begins in October 2025, it will not be used for assessing validity and reliability of the quality measures.” This sentence is corrected to read: “We are finalizing the decision that the data from the first quarter—Q4 CY 2025, if HOPE data collection begins in October 2025—will not be used for assessing validity and reliability of the quality measures.”

We also inadvertently used the word “proposed” in our discussion of HOPE-based quality measures. HOPE-based quality measures are finalized as of the FY 2025 final rule; therefore, they should not be referred to as “proposed”. The sentence incorrectly read: “In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the proposed quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures’ appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.”

As HOPE-based quality measures are finalized as of the FY 2025 final rule; they should not be referred to as “proposed”. Therefore, this sentence is corrected to read: “In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the HOPE-based quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures’ appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.”

On page 64260, we made a typographical error inadvertently stating that under the Paperwork Reduction Act of 1995, we are required to provide “60-day notice” in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. Instead, we are required to provide a “30-day notice.”

In addition, on page 64260, the sentence that reads “The OMB control number will remain 0938–1153.” and the parenthetical phrase that reads “(set out in the PRA accompanying this Rule, as well as the HOPE Guidance Manual finalized in this Rule)” are removed.

On page 64261, we referred readers to the HOPE Beta testing report and the PRA package associated with the rule. The “PRA package” should have been referred to as the “information collection request”. In addition, we inadvertently omitted the expiration

date for the information collection request. The sentence is corrected to read: “For additional information regarding the calculation of HOPE time and cost burdens, please refer to the HOPE Beta Testing Report found on the HOPE web page at <https://www.cms.gov/medicare/quality/hospice/hope> and the information collection request (OMB control number 0938–1153/Expiration date: 1/31/2026) associated with this rule found at <https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pralisting>.”

On page 64262, we made a typographical error within Table 18. The cell “HUV Timepoint” is corrected to read: “HUV Timepoints.”

B. Summary of Errors and Corrections Posted on the CMS Website

As discussed above, we inadvertently omitted FIPS county number 09150 Northeastern Connecticut planning region from the list of counties that must use a 500XX transition code beginning in FY 2025. That error was subsequently included in the FY 2025 Hospice wage index file exclusively on the CMS website at: <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index>. In Tab 2 of the FY 2025 Hospice Wage Index file labeled “CT Counties”, we are correcting the erroneous assignment of the Northeastern Connecticut planning region to CBSA 99907 for FY 2025, to reflect the newly assigned wage index transition code 50030. We are also correcting the omission of the Northeastern Planning Region from Tab 3 of the file labeled “Transition Codes”, noting the addition of this region to the list of counties that must use a 500XX transition code instead of the statewide rural area code or CBSA number on the hospice claim beginning in FY 2025.

Given these errors, we are republishing the FY 2025 Hospice Wage Index file accordingly on the CMS website at: <https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index> effective October 1, 2024.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rulemaking in

the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support. We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This correcting document corrects technical and typographical errors in the preamble, addenda, payment rates, and tables included or referenced in the FY 2025 Hospice final rule but does not make substantive changes to the policies or payment methodologies that were adopted in the FY 2025 Hospice final rule. As a result, this correcting document is intended to ensure that the information in the FY 2025 Hospice final rule accurately reflects the policies adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this correcting document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public’s interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the FY 2025 Hospice final rule reflects our policies. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, we are simply correctly implementing

the policies that we previously proposed, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2025 Hospice final rule accurately reflects these payment methodologies and policies. For these reasons, we believe we have good cause to waive the notice and comment and delayed effective date requirements.

IV. Correction of Errors

In FR Doc. 2024–16910 of August 6, 2024 (89 FR 64202) make the following corrections:

1. On page 64207, second column, second full paragraph:
 - a. In lines 17 and 18, “Hinesville-Fort Stewart, Georgia” is corrected to read “Hinesville, Georgia”.
 - b. In lines 19 and 20, “Hinesville-Fort Stewart, Georgia” is corrected to read “Hinesville, Georgia”.

c. In line 20, the figure “0.8872” is corrected to read: “0.8886”.

2. On page 64209, second column, paragraph below Table 2, “53 counties (and county equivalents)” is corrected to read “54 counties and county equivalents”.

3. On page 64210, Table 3 is corrected by adding an entry at the beginning of the table for FIPS County code “09015” to read as follows:

TABLE 3—URBAN COUNTIES THAT WOULD CHANGE TO RURAL STATUS

FIPS county code	County name	State	Current CBSA	Current CBSA name
09015	WINDHAM	CT	49340	Worcester, MA-CT.
*	*	*	*	*

4. On page 64222, Table 8 is corrected by adding an entry at the beginning of the table for FIPS code “09150” code to read as follows:

TABLE 8—COUNTIES THAT WILL USE A WAGE INDEX TRANSITION CODE

FIPS code	County name	FY 2024 CBSA	FY 2024 CBSA name	FY 2025 CBSA	FY 2025 CBSA name	FY 2025 transition code
09150	NORTHEASTERN CONNECTICUT.	49340	Worcester, MA-CT	99907	CONNECTICUT	50030
*	*	*	*	*	*	*

5. On page 64239, in the first column, the header “2. Implementation of Two Process Quality Measures Based on Proposed HOPE Data Collection” is corrected to read

“2. Implementation of Two Process Quality Measures Based on HOPE Data Collection”.

6. On page 64240, third column, first full paragraph, in lines 4 through 6, the sentence “CMS maintains to avoid creating unnecessary burden for hospice providers.” is corrected to read “CMS maintains its commitment to avoid creating unnecessary burden for hospice providers.”

7. On page 64242, third column, last partial paragraph, in lines 11 and 12, the sentence “Theses (SFVs) may be performed by RNs or LPNs/LVNs.” is corrected to read “These SFVs may be performed by RNs or LPNs/LVNs.”

8. On page 64244, second column:

- a. First partial paragraph, the final sentence, “We are finalizing the decision that the data from the first quarter Q4 CY 2025, if HOPE data collection begins in October 2025, it will not be used for assessing validity and reliability of the quality measures.”, is corrected to read “We are finalizing the decision that the data from the first

quarter—Q4 CY 2025, if HOPE data collection begins in October 2025—will not be used for assessing validity and reliability of the quality measures.”

b. Second full paragraph, in lines 7 through 17, the sentence that reads “In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the proposed quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures’ appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.” is corrected to read “In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the HOPE-based quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures’ appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.”

9. On page 64260:

- a. First column, first partial paragraph under the heading “IV. Collection of Information Requirements”, in lines 2

and 3, “60-day” is corrected to read “30-day”.

b. Third column, first partial paragraph:

i. In lines 3 and 4, the sentence that reads “The OMB control number will remain 0938–1153.” is removed.

ii. In lines 11 through 14, the parenthetical phrase “(set out in the PRA accompanying this Rule, as well as the HOPE Guidance Manual finalized in this Rule)” is removed.

10. On page 64261:

- a. First column, first partial paragraph, in lines 1 through 11, the sentence that reads “For additional information regarding the calculation of HOPE time and cost burdens, please refer to the HOPE Beta Testing Report found on the HOPE web page at <https://www.cms.gov/medicare/quality/hospice/hope> and the PRA package associated with this rule found at <https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pralisting>.” is corrected to read “For additional information regarding the calculation of HOPE time and cost burdens, please refer to the HOPE Beta Testing Report found on the HOPE web page at <https://www.cms.gov/medicare/>

quality/hospice/hope and the information collection request (OMB control number 0938–1153/Expiration date: 1/31/2026) associated with this rule found at <https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pralisting>.”

b. Third column, lines 15 through 21, the sentence that reads “This increase in incremental burden is explained further in the Regulatory Impact Analysis (RIA) section of this Rule, and is also discussed in detail in the Information Collection Request and PRA accompanying this Rule.” is corrected to read “This increase in incremental burden is explained further in the Regulatory Impact Analysis (RIA) section of this rule, and is also discussed in detail in the information collection request accompanying this rule (OMB control number (0938–1153/Expiration date: 1/31/2026).”

11. On page 64262, in Table 18, titled “Summary of Changes in Burden”, the entry “HUV Timepoint” is corrected to read “HUV Timepoints”.

Elizabeth J. Gramling,

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

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[Docket No. FRA–2024–0034]

RIN 2130–AC98

Federal Railroad Administration Accident/Incident Investigation Policy for Gathering Information and Consulting With Stakeholders

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Direct final rule.

SUMMARY: FRA is taking direct final action to amend its Accident/Incident Regulations governing reporting, classification, and investigations by codifying FRA’s policy for gathering information from, and consulting with, stakeholders during an accident/incident investigation.

DATES:

Effective date: This final rule is effective on October 31, 2024, without further notice unless FRA receives adverse, substantive comment by October 31, 2024. If FRA receives

adverse, substantive comment on this direct final rule, it will publish a timely withdrawal in the **Federal Register** informing the public the rule will not take effect.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2024–0034 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking (RIN 2130–AC98). Note that all comments received will be posted without change to <https://www.regulations.gov> including any personal information provided. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. For additional submission methods and general guidance on making effective comments, please visit <https://www.transportation.gov/regulations/rulemaking-process>.

Docket: For access to the docket to read comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Rick Huggins, Supervisory Railroad Security Specialist, Office of Railroad Safety, FRA, telephone: 202–465–6922 or email: ricky.huggins@dot.gov; or Senya Waas, Senior Attorney, Office of the Chief Counsel, FRA, telephone: 202–875–4158 or email: senyaann.waas@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 49 U.S.C. 20103, FRA, as delegated by the Secretary of Transportation,¹ has authority to “prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.” As part of its mission to enforce and improve rail safety, FRA investigates rail transportation accidents/incidents which result in serious injury to an individual or to railroad property. See 49 U.S.C. 20902. In Section 22417 of the Infrastructure Investment and Jobs Act (IIJA), Congress mandated that the Secretary of Transportation (Secretary) create a standard process for investigators to use during accident and incident investigations conducted under

this section. This process is to be used to determine when it is appropriate and the appropriate method for gathering information about an accident or incident under investigation from railroad carriers, contractors or employees of railroad carriers, or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary. The process will also be used to determine when it is appropriate to consult with railroad carriers, contractors or employees of railroad carriers, or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary, for technical expertise on the facts of the accident or incident under investigation. See Public Law 117–58, section 22417, Nov. 15, 2021, 135 Stat. 748.

In developing this standard process, the Secretary must also factor in ways to maintain the confidentiality of any entity if:

- (1) The entity requests confidentiality;
- (2) The entity was not involved in the accident or incident; and
- (3) Maintaining the entity’s confidentiality does not adversely affect FRA’s investigation.

The IIJA specifies that any process developed under section 22417 applies only to FRA investigations and does not apply to any investigation carried out by the National Transportation Safety Board (NTSB).

In response to the IIJA mandate, FRA worked with stakeholders, including both labor and rail organizations, to develop a *Policy for Gathering Information and Consulting with Stakeholders* (Policy Document). The resulting Policy Document is available on FRA’s website² and includes guidelines for:

- When FRA will provide the opportunity for stakeholders to participate in FRA accident/incident investigations;
- How FRA will notify stakeholders of an accident investigation in which they may participate;
- The expectations of stakeholders;
- How stakeholders can participate in FRA’s accident investigation process;
- How stakeholders can submit information to FRA to assist with the investigation; and
- How confidentiality of individuals and requests for confidentiality by entities will be addressed and maintained.

This rule codifies the process contained in the Policy Document.

² <https://railroads.dot.gov/elibrary/bipartisan-infrastructure-law-section-22417-fra-accident-and-incident-investigations-0>.

¹ 49 CFR 1.89(a); 49 U.S.C. 103(g).