

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-09 Medicare Contractor Beneficiary and Provider Communications</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 11127</b>	<b>Date: November 16, 2021</b>
	<b>Change Request 12516</b>

**SUBJECT: The Supplemental Security Income (SSI)/Medicare Beneficiary Data for Fiscal Year (FY) 2019 for Inpatient Prospective Payment System (IPPS) Hospitals, Inpatient Rehabilitation Facilities (IRFs), and Long Term Care Hospitals (LTCHs)**

**I. SUMMARY OF CHANGES:** These instructions provide updated data for determining the disproportionate share adjustment for IPPS hospitals and the low-income patient adjustment for IRFs as well as payments as applicable for LTCH discharges (e.g., discharges paid by the IPPS comparable amount under the short-stay outlier payment adjustment). The SSI/Medicare beneficiary data for hospitals are available electronically and contains the name of the hospital, CMS certification number, SSI days, Medicare days, and the ratio of days for patients entitled to Medicare Part A attributable to SSI recipients.

The updated data complies with the 9th Circuit decision in *Empire Health Foundation v. Azar* for hospitals under the jurisdiction of that court.

**EFFECTIVE DATE: December 17, 2021**

*\*Unless otherwise specified, the effective date is the date of service.*

**IMPLEMENTATION DATE: December 17, 2021**

***Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.***

**II. CHANGES IN MANUAL INSTRUCTIONS:** (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
N/A	N/A

**III. FUNDING:**

**For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

#### **IV. ATTACHMENTS:**

**Recurring Update Notification**

# Attachment - Recurring Update Notification

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**EFFECTIVE DATE: December 17, 2021**

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**IMPLEMENTATION DATE: December 17, 2021**

## I. GENERAL INFORMATION

**A. Background:** These instructions provide updated data for determining the Disproportionate Share (DSH) adjustment for IPPS hospitals and the Low-Income Patient (LIP) adjustment for IRFs as well as payments as applicable for LTCH discharges (e.g., paid by the IPPS comparable amount under the short-stay outlier payment adjustment). The SSI/Medicare beneficiary data for hospitals are available electronically and contains the name of the hospital, CMS certification number, SSI days, Medicare days, and the ratio of days for patients entitled to Medicare Part A attributable to SSI recipients. The files are located at the following CMS website addresses:

IPPS: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh.html>

IRF: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/SSIData.html>

LTCH: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/download.html>

The data is used for settlement purposes for IPPS hospitals and IRFs with cost reporting periods beginning and during FY 2019 (cost reporting periods beginning on or after October 1, 2018, and before October 1, 2019), except when explicitly directed otherwise by CMS.

For IPPS hospitals in the Ninth Circuit's jurisdiction (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington), these ratios include only "covered days" in order to reflect the decision of the 9th Circuit in *Empire Health Foundation v. Azar* (currently pending before the Supreme Court), in order to preliminarily settle cost reports.

For all other hospitals, the methodology for calculating FY 2019 SSI ratios uses total Medicare days, consistent with our existing regulations.

**B. Policy:** Section 9105 of the Consolidated Omnibus Budget Reconciliation Act of 1985 provides that for discharges occurring on or after May 1, 1986, an additional payment must be made to IPPS hospitals serving a disproportionate share of low-income patients. The additional payment is determined by multiplying the federal portion of the Diagnosis-Related Group (DRG) payment by the DSH adjustment factor, and beginning for discharges occurring on or after October 1, 2014, the additional payment is determined by multiplying the DRG payment by the DSH adjustment factor reduced by 75 percent. (See 42 Code of Federal Regulations (CFR) 412.106.) Under IRF Prospective Payment System (PPS), IRFs will receive an additional payment amount to account for the cost of furnishing care to low-income patients. The additional payment is determined by multiplying the federal prospective payment by the LIP adjustment formula. (See 42 CFR 412.624(e)(2).)

Under the LTCH PPS, certain discharges require the calculation of an amount comparable to the amount that would otherwise be paid under the IPPS (i.e., the "IPPS comparable amount.") which includes an "IPPS Comparable" DSH adjustment, where applicable, that is determined using the best available SSI data at the time of claim payment (See 42 CFR 412.529(d)(4)).

## II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility									
		A/B MAC			D M E	Shared-System Maintainers			Other		
		A	B	H H H		F I S S	M C S	V M S		C W F	
12516.1	Contractors shall update their IPPS, IRF, and LTCH provider specific files prospectively, within 30 days of the implementation date of this CR, using the latest year's SSI Ratio that is posted to the CMS website as of the implementation date of this CR, except when explicitly directed otherwise by CMS.	X									

## III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility						
		A/B MAC			D M E	C E D I		
		A	B	H H H			M A C	
12516.2	Medicare Learning Network® (MLN): CMS will market provider education content through the MLN Connects® newsletter shortly after CMS releases the CR. MACs shall follow IOM Pub. No. 100-09 Chapter 6, Section 50.2.4.1 instructions for distributing the MLN Connects newsletter information to providers and link to relevant information on your website. You may supplement MLN content with your local information after we release the MLN Connects newsletter. Subscribe to the "MLN Connects" listserv to get MLN content notifications. You don't need to separately track and report MLN content releases when you distribute MLN Connects newsletter content per the manual section referenced above.	X						

## IV. SUPPORTING INFORMATION

**Section A: Recommendations and supporting information associated with listed requirements: N/A**

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
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**Section B: All other recommendations and supporting information:** N/A

## V. CONTACTS

**Pre-Implementation Contact(s):** Susanne Seagrave, susanne.seagrave@cms.hhs.gov , Emily Lipkin, emily.lipkin@cms.hhs.gov , Yvette Rivas, yvette.rivas@cms.hhs.gov

**Post-Implementation Contact(s):** Contact your Contracting Officer's Representative (COR).

## VI. FUNDING

### **Section A: For Medicare Administrative Contractors (MACs):**

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**ATTACHMENTS: 0**