

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-04 Medicare Claims Processing</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 1135</b>	<b>Date: DECEMBER 22, 2006</b>
	<b>Change Request 5303</b>

**Subject: Correction of Instructions for Calculating IRF Compliance Percentage Threshold**

**I. SUMMARY OF CHANGES:** New instructions are set forth for calculating the IRF Compliance Percentage Threshold where the compliance review period is associated with more than one cost reporting period.

**New / Revised Material**

**Effective Date: July 1, 2005**

**Implementation Date: March 22, 2007**

*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.*

R/N/D	Chapter / Section / Subsection / Title
R	3/Table of Contents
R	3/140.1.4/Verification Process To be Used to Determine If the Inpatient Rehabilitation Facility Met the Classification Criteria

**III. FUNDING:**

No additional funding will be provided by CMS; Contractor activities are to be carried out within their FY 2007 operating budgets.

**IV. ATTACHMENTS:**

**Business Requirements**

**Manual Instruction**

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





Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I  I E R	C A R R E R	D M E R C	R E H R I	Shared-System Maintainers			
							F I S	M C S	V M S	C W F	
	shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.										

**IV. SUPPORTING INFORMATION**

N/A

**A. For any recommendations and supporting information associated with listed requirements, use the box below:**

*"Should" denotes a recommendation.*

X-Ref Requirement Number	Recommendations or other supporting information:

**B. For all other recommendations and supporting information, use the space below: N/A**

**V. CONTACTS**

**Pre-Implementation Contact(s):** Julie Stankivic, (410) 786-5725

**Post-Implementation Contact(s):** Pete Diaz, (410) 786-1235

**VI. FUNDING**

**A. For TITLE XVIII Contractors:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2007 operating budgets.

***B. For Medicare Administrative Contractors (MAC):***

The contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the Statement of Work (SOW). The contractor is not obligated to incur costs in excess of the amounts specified 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.

# Medicare Claims Processing Manual

## Chapter 3 - Inpatient Hospital Billing

### Table of Contents

*(Rev. 1135, 12-22-06)*

*140.1.4-Verification Process Used to Determine if the Inpatient Rehabilitation Facility  
Met the Classification Criteria*

***140.1.4-Verification Process Used To Determine If The Inpatient Rehabilitation Facility Met The Classification Criteria  
(Rev. 1135, Issued: 12-22-06; Effective: 07-01-05; Implementation: 03-22-07)***

A. Determination of the Compliance Review Time Period.

1. General Guideline To Determine The Compliance Review Period. In general, the RO and FI will use data from a most recent, consecutive, and appropriate 12-month time period (as defined by CMS or the FI) that starts on or after July 1, 2004, to determine if a facility is in compliance with all of the criteria used to classify a facility as an IRF. The RO and FI will notify the facility regarding which most recent, consecutive, and appropriate 12-month period will be used as the review time period when they determine if the criteria used to classify a facility as an IRF was met. The RO and FI will begin 4 months prior to the start of the facility's next cost reporting time period the process necessary to verify all of the criteria used to classify a facility as an IRF. If for any reason the RO or FI require additional time to complete their compliance review, the RO and FI must consult with the facility prior to changing the compliance time period subject to review, and before using patient data that may overlap patient data from the previous 12-month review period.

The table below entitled "Table Of Compliance Review Periods" illustrates the time spans associated with an IRF's compliance review period and the compliance percentage threshold that must be met during each compliance review period. Depending on the specific compliance review period, a compliance review period may include a span of time from only one cost reporting period, or a compliance review period may span periods of time from two cost reporting periods.

For cost reporting periods that start on or after July 1, 2008, the compliance percentage threshold that the IRF must meet is 75 percent. However, for cost reporting periods that start on or after July 1, 2004, *but not later than* June 30, 2008, the compliance percentage threshold that an IRF must meet changes in accordance with the requirements specified in §140.1.1B. *Below in (a) through (f) are examples of how the compliance percentage is calculated when the compliance review period is associated with one or more cost reporting periods. Following the examples is a "Table of Compliance Review Periods" that in most cases can be used to ascertain what compliance percentage must be met for a specific time period.*

a. When the cost reporting period starts on or after July 1, 2004, and the compliance review period is associated with only one cost reporting period.

When an IRF has a cost reporting period that starts on or after July 1, 2004, and the compliance review period is associated with only one cost reporting period (for example, but not only, a new IRF), the compliance percentage is the percentage of the cases in the total compliance review period that met at least one of the medical conditions listed in §140.1.1C. For example, for an IRF that has a cost reporting period that started on July 1, 2004, and ends on June 30, 2005, the compliance review period is July 1, 2004, to

February 28, 2005, and the compliance percentage is the percentage of cases from July 1, 2004, to February 28, 2005, that met at least one of the medical conditions listed in §140.1.1C.

(1) Guideline To Determine The Compliance Review Period For IRFs With Cost Reporting Periods That Start Between July 1, 2004, and October 31, 2004. If an IRF has a cost reporting period beginning on or after July 1, 2004, *but not later* than November 1, 2004, the RO and FI cannot collect 12 months of the most recent, consecutive, and appropriate data from a period falling completely after, as opposed to before, July 1, 2004, and have the 4 months of time necessary to make the compliance determination. To illustrate, to determine whether a hospital with a cost reporting period beginning on July 1, 2004, should continue to be classified as an IRF for the cost reporting period beginning on July 1, 2005, the RO and FI would have to start their compliance review 4 months prior to July 1, 2005, which means that the compliance review will start on March 1, 2005. As stated above, in general the RO and FI will use 12 months of data from the most recent, consecutive, and appropriate time period that is after July 1, 2004. Starting the compliance review on March 1, 2005, means that the RO and FI must use data from the previous 12 months, which is March 1, 2004, to February 28, 2005. However, using data from March 1, 2004, to February 28, 2005, would result in the RO and FI using 4 months of data, that is, March 1, 2004, to June 30, 2004, from a time period that is before July 1, 2004. Therefore, to avoid using data from a time period that is prior to July 1, 2004, an IRF with a cost reporting period that starts between July 1, 2004, and October 31, 2004, will have a compliance review period, as generally illustrated *below* in the Table of Compliance Review Periods, that is less than 12-months.

b. When the cost reporting periods starts on or after July 1, 2004, *but not later than* June 30, 2005 and the compliance review period spans two cost reporting periods.

When an IRF has a cost reporting period that starts on or after July 1, 2004, *but not later than* June 30, 2005, and the compliance review period *spans* two cost reporting periods, the compliance percentage is the percentage of the cases in the total compliance review period that met at least one of the medical conditions listed in §140.1.1C. For example, for an IRF that has a cost reporting period than starts on January 1, 2005, and ends on December 31, 2005, the compliance review period is September 1, 2004, to August 31, 2005, and the compliance percentage is the percentage of cases from September 1, 2004, to August 31, 2005, that met at least one of the medical conditions listed in §140.1.1C.

c. When *a* cost reporting period starts on or after July 1, 2005, *but not later than June 30, 2006*, and the compliance review period spans two cost reporting periods *the compliance percentage is calculated using either of the following two methods. The provider may meet the compliance threshold requirements that are described more fully above in §140.1.1B by use of either of these methods.*

(1) When an IRF has a cost reporting period that starts on or after July 1, 2005, *but not later than June 30, 2006*, and the compliance review period

*spans* two cost reporting periods, *and the compliance review period is divided into two portions of time*, and the IRF had a patient population in each portion of the compliance review period, each portion of the compliance review period must separately meet the compliance percentage threshold of the cost reporting period that includes that portion of time of the compliance review period, in order for a determination to be made that the compliance *requirements were* met for the entire compliance review period.

*The following is an example illustrating how the criteria directly above would be used to determine if the compliance requirements were met.*

- As illustrated in the table below entitled “Table Of Compliance Review Periods,” an IRF that has a cost reporting period that started on July 1, 2004, must meet, as described more fully above in §140.1.1B, a compliance threshold of 50 percent for the cost reporting period of July 1, 2004, to June 30, 2005. In addition, for the next cost reporting period that starts on July 1, 2005, the IRF must meet, as described more fully above in §140.1.1B, a compliance threshold of 60 percent for the cost reporting period of July 1, 2005, to June 30, 2006.
- For the cost reporting period that starts on July 1, 2005, the IRF has a compliance review period consisting of March 1, 2005, to February 28, 2006. In this example, the time period from March 1, 2005, to June 30, 2005, is part of *the* IRF’s cost reporting period that started on July 1, 2004, and ends on June 30, 2005, and the time period from July 1, 2005, to February 28, 2006, is part of the IRF’s cost reporting period that starts on July 1, 2005, and ends on June 30, 2006.
- For the portion of the compliance review period from March 1, 2005, to June 30, 2005, the compliance percentage threshold that must be met is 50 percent. Similarly, for the portion of the compliance review period from July 1, 2005, to February 28, 2006, the compliance percentage threshold that must be met is 60 percent.
- If the IRF does not meet the compliance percentage threshold of 50 percent for the March 1, 2005, to June 30, 2005, portion of the compliance review time period, or the compliance percentage threshold of 60 percent for the July 1, 2005, to February 28, 2006, portion of the compliance review time period, it will be determined that the IRF failed to meet the compliance percentage threshold for the entire compliance review period consisting of March 1, 2005, to February 28, 2006.

*(2) When an IRF has a cost reporting period that starts on or after July 1, 2005, but not later than June 30, 2006, and the compliance review period spans two cost reporting periods, and the compliance review period is divided into two portions of time, and the IRF had a patient population in each portion of the compliance review period, the two portions of the compliance review period may be used to calculate one weighted average compliance percentage for the entire 12-month compliance review period. The weighted average compliance percentage that is calculated for the entire 12-*

*month compliance review period will be used to determine if the facility met the compliance threshold requirements that are described more fully above in §140.1.1B.*

- *For example, an IRF with a cost reporting period starting on 08/01/2005 has a compliance review period of 04/01/2005 to 03/31/2006 but that 12-month period is divided into two portions which are 04/01/2005 to 07/31/2005 and 08/01/2005 to 03/31/2006. In this example, during the 04/01/2005 to 07/31/2005 portion of time 45 percent of the cases met at least one of the medical conditions listed above in §140.1.1C, and during the 08/01/2005 to 03/31/2006 portion of time 80 percent of the cases met at least one of the medical conditions listed in §140.1.1C. The weighted average compliance percentage from the two portions of time may be calculated as follows:*

$$4/12 = 0.333 \text{ which is rounded to } 0.33$$

$$8/12 = 0.666 \text{ which is rounded to } 0.67$$

$$0.33 \times 45\% = 0.1485$$

$$0.67 \times 80\% = 0.5360$$

$$0.1485 + 0.5360 = 0.6845 \text{ which is rounded to } 68\%$$

*In accordance with the compliance threshold requirements that are described more fully above in §140.1.1B, for the cost reporting period starting on 08/01/2005 the compliance threshold was 60 percent. During the 12-month compliance review period of 04/01/2005 to 03/31/2006 the weighted average compliance percentage the IRF attained was 68 percent and, thus, for the cost reporting period that started on 08/01/2005 the IRF met the compliance threshold. Other weighted averaging techniques may also be used to determine the weighted average compliance percentage, as long as the technique that is used is mathematically sound and consistent with logical mathematical reasoning.*

*d. When the cost reporting periods starts on or after July 1, 2006, but not later than June 30, 2007 and the compliance review period spans two cost reporting periods.*

*When an IRF has a cost reporting period that starts on or after July 1, 2006, but not later than June 30, 2007, and the compliance review period spans two cost reporting periods, the compliance percentage attained is the percentage of the cases in the total 12-month compliance review period that met at least one of the medical conditions listed in §140.1.1C. The compliance review period is not divided into two portions of time because for cost reporting periods starting on or after July 1, 2006, but not later than June 30, 2007, the compliance threshold that must be met is 60 percent. For example, for an IRF that has a cost reporting period that starts on August 1, 2006, and ends on July 31, 2007, the compliance review period is April 1, 2006, to March 31, 2007, and the compliance percentage is the percentage of cases from April 1, 2006, to March 31, 2007, that met at least one of the medical conditions listed in §140.1.1C.*

*e. When a cost reporting period starts on or after July 1, 2007, but not later than June 30, 2009, and the compliance review period spans two cost reporting periods the compliance percentage is calculated using either of the following methods. The provider may meet the compliance threshold requirements that are described more fully above in §140.1.1B by use of either of these methods.*

*(1) When an IRF has a cost reporting period that starts on or after July 1, 2007, but not later than June 30, 2009, and the compliance review period spans two cost reporting periods, and the compliance review period is divided into two portions of time, and the IRF had a patient population in each portion of the compliance review period, each portion of the compliance review period must separately meet the compliance percentage threshold of the cost reporting period that includes that portion of time of the compliance review period, in order for a determination to be made that the compliance requirements were met for the entire compliance review period.*

*The following is an example illustrating how the criteria directly above would be used to determine if the compliance requirements were met.*

- As illustrated in the table below entitled “Table Of Compliance Review Periods,” an IRF that has a cost reporting period that started on July 1, 2007, must meet, as described more fully above in §140.1.1B, a compliance threshold of 65 percent for the cost reporting period of July 1, 2007, to June 30, 2008. In addition, for the next cost reporting period that starts on July 1, 2008, the IRF must meet, as described more fully above in §140.1.1B, a compliance threshold of 75 percent for the cost reporting period of July 1, 2008, to June 30, 2009.*
- For the cost reporting period that starts on July 1, 2007, the IRF has a compliance review period consisting of March 1, 2007, to February 29, 2008. In this example, the time period from March 1, 2007, to June 30, 2007, is part of IRF’s cost reporting period that started on July 1, 2006, and ends on June 30, 2007, and the time period from July 1, 2007, to February 29, 2008, is part of the IRF’s cost reporting period that starts on July 1, 2007, and ends on June 30, 2008.*
- For the portion of the compliance review period from March 1, 2007, to June 30, 2007, the compliance percentage threshold that must be met is 60 percent. Similarly, for the portion of the compliance review period from July 1, 2007, to February 29, 2008, the compliance percentage threshold that must be met is 65 percent.*
- If the IRF does not meet the compliance percentage threshold of 60 percent for the March 1, 2007, to June 30, 2007, portion of the compliance review time period, or the compliance percentage threshold of 65 percent for the July 1, 2007, to February 29, 2008, portion of the compliance review time period, it will be determined that the IRF failed to meet the compliance percentage threshold for*

*the entire compliance review period consisting of March 1, 2007, to February 29, 2008.*

*(2) When an IRF has a cost reporting period that starts on or after July 1, 2007, but not later than June 30, 2009, and the compliance review period spans two cost reporting periods, and the compliance review period is divided into two portions of time, and the IRF had a patient population in each portion of the compliance review period, the two portions of the compliance review period may be used to calculate one weighted average compliance percentage for the entire 12-month compliance review period. The weighted average compliance percentage that is calculated for the entire 12-month compliance review period will be used to determine if the facility met the compliance threshold requirements that are described more fully above in §140.1.1B. For example, an IRF with a cost reporting period starting on 08/01/2007 has a compliance review period of 04/01/2007 to 03/31/2008 but that 12-month period is divided into two portions which are 04/01/2007 to 07/31/2007 and 08/01/2007 to 03/31/2008. In this example, during the 04/01/2007 to 07/31/2007 portion of time 45 percent of the cases met at least one of the medical conditions listed above in §140.1.1C, and during the 08/01/2007 to 03/31/2008 portion of time 80 percent of the cases met at least one of the medical conditions listed in §140.1.1C. The weighted average compliance percentage from the two portions of time may be calculated as follows:*

*4/12 = 0.333 which is rounded to 0.33*

*8/12 = 0.666 which is rounded to 0.67*

*0.33 X 45% = 0.1485*

*0.67 X 80% = 0.5360*

*0.1485 + 0.5360 = 0.6845 which is rounded to 68%*

*In accordance with the compliance threshold requirements that are described more fully above in §140.1.1B, for the cost reporting period starting on 08/01/2007 the compliance threshold was 65 percent. During the 12-month compliance review period of 04/01/2007 to 03/31/2008 the weighted average compliance percentage the IRF attained was 68 percent and, thus, for the cost reporting period that started on 08/01/2007 the IRF met the compliance threshold. Other weighted averaging techniques may also be used to determine the weighted average compliance percentage.*

*f. When the cost reporting periods starts on or after July 1, 2009, and the compliance review period spans two cost reporting periods.*

*When an IRF has a cost reporting period that starts on or after July 1, 2009, and the compliance review period spans two cost reporting periods, the compliance percentage is the percentage of the cases in the total 12-month compliance review period that met at least one of the medical conditions listed in §140.1.1C. For example, for an IRF that has a cost reporting period than starts on August 1, 2009, and ends on July 31, 2010, the compliance review period is April 1, 2009, to March 31, 2010, and the compliance*

*percentage is the percentage of cases from April 1, 2009, to March 31, 2010, that met at least one of the medical conditions listed in §140.1.1C.*

2. Table Of Compliance Review Periods. For a facility that has been classified as an IRF, but is not a “new” IRF as defined below in §140.1.7, the following table illustrates the compliance review periods and the compliance percentage threshold that must be met during an entire compliance review period or portion of an entire compliance review period.

**Table Of Compliance Review Periods**

For Cost Reporting Periods Beginning On:	Review Period: (Admissions or Discharges During)	Number Of Months In Review Period	Compliance Percentage Threshold Associated With A Compliance Review Period Or Portions Of the Compliance Review Period	Compliance Determination Applies To Cost Reporting Period Beginning On:
07/01/2004	07/01/2004-02/28/2005	8	07/01/2004 to 02/28/2005: 50 %	07/01/2005
08/01/2004	07/01/2004-03/31/2005	9	07/01/2004 to 03/31/2005: 50 %	08/01/2005
09/01/2004	07/01/2004-04/30/2005	10	07/01/2004 to 04/30/2005: 50 %	09/01/2005
10/01/2004	07/01/2004-05/31/2005	11	07/01/2004 to 05/31/2005: 50 %	10/01/2005
11/01/2004	07/01/2004-06/30/2005	12	07/01/2004 to 06/30/2005: 50 %	11/01/2005
12/01/2004	08/01/2004-07/31/2005	12	08/01/2004 to 07/31/2005: 50 %	12/01/2005
01/01/2005	09/01/2004-08/31/2005	12	09/01/2004 to 08/31/2005: 50 %	01/01/2006
02/01/2005	10/01/2004-09/30/2005	12	10/01/2004 to 09/30/2005: 50 %	02/01/2006
03/01/2005	11/01/2004-10/31/2005	12	11/01/2004 to 10/31/2005: 50 %	03/01/2006
04/01/2005	12/01/2004-11/30/2005	12	12/01/2004 to 11/30/2005: 50 %	04/01/2006
05/01/2005	01/01/2005-12/31/2005	12	01/01/2005 to 12/31/2005: 50 %	05/01/2006
06/01/2005	02/01/2005-01/31/2006	12	02/01/2005 to 01/31/2006: 50 %	06/01/2006
07/01/2005	03/01/2005-02/28/2006	12	03/01/2005 to 06/30/2005: 50 % 07/01/2005 to 02/28/2006: 60 %	07/01/2006
08/01/2005	04/01/2005-	12	04/01/2005 to 07/31/2005: 50 %	08/01/2006

	03/31/2006		08/01/2005 to 03/31/2006: 60 %	
09/01/2005	05/01/2005-04/30/2006	12	05/01/2005 to 08/31/2005: 50 % 09/01/2005 to 04/30/2006: 60 %	09/01/2006
10/01/2005	06/01/2005-05/31/2006	12	06/01/2005 to 09/30/2005: 50 % 10/01/2005 to 05/31/2006: 60 %	10/01/2006
11/01/2005	07/01/2005-06/30/2006	12	07/01/2005 TO 10/31/2005: 50 % 11/01/2005 TO 06/30/2006: 60 %	11/01/2006
12/01/2005	08/01/2005-07/31/2006	12	08/012005 TO 11/30/2005: 50 % 12/01/2005 TO 07/31/2006: 60 %	12/01/2006
01/01/2006	09/01/2005-08/31/2006	12	09/01/2005 TO 12/31/2005: 50 % 01/01/2006 TO 08/31/2006: 60 %	01/01/2007
02/01/2006	10/01/2005-09/30/2006	12	10/01/2005 TO 01/31/2006: 50 % 02/01/2006 TO 09/30/2006: 60 %	02/01/2007
03/01/2006	11/01/2005-10/31/2006	12	11/01/2005 TO 02/28/2006: 50 % 03/01/2006 TO 10/31/2006: 60 %	03/01/2007
04/01/2006	12/01/2005-11/30/2006	12	12/01/2005 TO 03/31/2006: 50 % 04/01/2006 TO 11/30/2006: 60 %	04/01/2007
05/01/2006	01/01/2006-12/31/2006	12	01/01/2006 TO 04/30/2006: 50 % 05/01/2006 TO 12/31/2006: 60 %	05/01/2007
06/01/2006	02/01/2006-01/31/2007	12	02/01/2006 TO 05/31/2006: 50 % 06/01/2006 TO 01/31/2007: 60 %	06/01/2007
<i>07/01/2006</i>	<i>03/01/2006-02/28/2007</i>	<i>12</i>	<i>03/01/2006 to 02/28/2007: 60 %</i>	<i>07/01/2007</i>
<i>08/01/2006</i>	<i>04/01/2006-03/31/2007</i>	<i>12</i>	<i>04/01/2006 to 03/31/2007: 60 %</i>	<i>08/01/2007</i>
<i>09/01/2006</i>	<i>05/01/2006-04/30/2007</i>	<i>12</i>	<i>05/01/2006 to 04/30/2007: 60 %</i>	<i>09/01/2007</i>
<i>10/01/2006</i>	<i>06/01/2006-05/31/2007</i>	<i>12</i>	<i>06/01/2006 to 05/31/2007: 60 %</i>	<i>10/01/2007</i>
<i>11/01/2006</i>	<i>07/01/2006-06/30/2007</i>	<i>12</i>	<i>07/01/2006 to 06/30/2007: 60 %</i>	<i>11/01/2007</i>
<i>12/01/2006</i>	<i>08/01/2006-07/31/2007</i>	<i>12</i>	<i>08/01/2006 to 07/31/2007: 60 %</i>	<i>12/01/2007</i>
<i>01/01/2007</i>	<i>09/01/2006-08/31/2007</i>	<i>12</i>	<i>09/01/2006 to 08/31/2007: 60 %</i>	<i>01/01/2008</i>
<i>02/01/2007</i>	<i>10/01/2006-09/30/2007</i>	<i>12</i>	<i>10/01/2006 to 09/30/2007: 60 %</i>	<i>02/01/2008</i>
<i>03/01/2007</i>	<i>11/01/2006-10/31/2007</i>	<i>12</i>	<i>11/01/2006 to 10/31/2007: 60 %</i>	<i>03/01/2008</i>
<i>04/01/2007</i>	<i>12/01/2006-11/30/2007</i>	<i>12</i>	<i>12/01/2006 to 11/30/2007: 60 %</i>	<i>04/01/2008</i>
<i>05/01/2007</i>	<i>01/01/2007-12/31/2007</i>	<i>12</i>	<i>01/01/2007 to 12/31/2007: 60 %</i>	<i>05/01/2008</i>
<i>06/01/2007</i>	<i>02/01/2007-01/31/2008</i>	<i>12</i>	<i>02/01/2007 to 01/31/2008: 60 %</i>	<i>06/01/2008</i>

07/01/2007	03/01/2007-02/29/2008	12	03/01/2007 to 06/30/2007: 60 % 07/01/2007 to 02/29/2008: 65 %	07/01/2008
08/01/2007	04/01/2007-03/31/2008	12	04/01/2007 to 07/31/2007: 60 % 08/01/2007 to 03/31/2008: 65 %	08/01/2008
09/01/2007	05/01/2007-04/30/2008	12	05/01/2007 to 08/31/2007: 60 % 09/01/2007 to 04/30/2008: 65 %	09/01/2008
10/01/2007	06/01/2007-05/31/2008	12	06/01/2007 to 09/30/2007: 60 % 10/01/2007 to 05/31/2008: 65 %	10/01/2008
11/01/2007	07/01/2007-06/30/2008	12	07/01/2007 to 10/31/2007: 60 % 11/01/2007 to 06/30/2008: 65 %	11/01/2008
12/01/2007	08/01/2007-07/31/2008	12	08/01/2007 to 11/30/2007: 60 % 12/01/2007 to 07/31/2008: 65 %	12/01/2008
01/01/2008	09/01/2007-08/31/2008	12	09/01/2007 to 12/31/2007: 60 % 01/01/2008 to 08/31/2008: 65 %	01/01/2009
02/01/2008	10/01/2007-09/30/2008	12	10/01/2007 to 01/31/2008: 60 % 02/01/2008 to 09/30/2008: 65 %	02/01/2009
03/01/2008	11/01/2007-10/31/2008	12	11/01/2007 to 02/29/2008: 60 % 03/01/2008 to 10/31/2008: 65 %	03/01/2009
04/01/2008	12/01/2007-11/30/2008	12	12/01/2007 to 03/31/2008: 60 % 04/01/2008 to 11/30/2008: 65 %	04/01/2009
05/01/2008	01/01/2008-12/31/2008	12	01/01/2008 to 04/30/2008: 60 % 05/01/2008 to 12/31/2008: 65 %	05/01/2009
06/01/2008	02/01/2008-01/31/2009	12	02/01/2008 to 05/31/2008: 60 % 06/01/2008 to 01/31/2009: 65 %	06/01/2009
07/01/2008	03/01/2008-02/28/2009	12	03/01/2008 to 06/30/2008: 65 % 07/01/2008 to 02/28/2009: 75 %	07/01/2009
08/01/2008	04/01/2008-03/31/2009	12	04/01/2008 to 07/31/2008: 65 % 08/01/2008 to 03/31/2009: 75 %	08/01/2009
09/01/2008	05/01/2008-04/30/2009	12	05/01/2008 to 08/31/2008: 65 % 09/01/2008 to 04/30/2009: 75 %	09/01/2009
10/01/2008	06/01/2008-05/31/2009	12	06/01/2008 to 09/30/2008: 65 % 10/01/2008 to 05/31/2009: 75 %	10/01/2009
11/01/2008	07/01/2008-06/30/2009	12	07/01/2008 to 10/31/2008: 65 % 11/01/2008 to 06/30/2009: 75 %	11/01/2009
12/01/2008	08/01/2008-07/31/2009	12	08/01/2008 to 11/30/2008: 65 % 12/01/2008 to 07/31/2009: 75 %	12/01/2009
01/01/2009	09/01/2008-08/31/2009	12	09/01/2008 to 12/31/2008: 65 % 01/01/2009 to 08/31/2009: 75 %	01/01/2010
02/01/2009	10/01/2008-09/30/2009	12	10/01/2008 to 01/31/2009: 65 % 02/01/2009 to 09/30/2009: 75 %	02/01/2010
03/01/2009	11/01/2008-10/31/2009	12	11/01/2008 to 02/28/2009: 65 % 03/01/2009 to 10/31/2009: 75 %	03/01/2010
04/01/2009	12/01/2008-11/30/2009	12	12/01/2008 to 03/31/2009: 65 % 04/01/2009 to 11/30/2009: 75 %	04/01/2010
05/01/2009	01/01/2009-12/31/2009-	12	01/01/2009 to 04/30/2009: 65 % 05/01/2009 to 12/31/2009: 75 %	05/01/2010

06/01/2009	02/01/2009-01/31/2010	12	02/01/2009 to 05/31/2009:65 % 06/01/2009 to 01/31/2010: 75 %	06/01/2010
<i>07/01/2009</i>	<i>03/01/2009-02/28/2010</i>	<i>12</i>	<i>03/01/2009 to 02/28/2010: 75 %</i>	<i>07/01/2010</i>
<i>08/01/2009</i>	<i>04/01/2009-03/31/2010</i>	<i>12</i>	<i>04/01/2009 to 03/31/2010: 75 %</i>	<i>08/01/2010</i>

*For cost reporting periods starting after August 1, 2009, the compliance threshold that must be met is 75 percent, and the compliance review period will be a 12-month time period that is not divided into two portions of time.*

As illustrated in the above table, if a cost reporting period starts on or after July 1, 2004, and *not later than* November 1, 2004, data from a compliance review period that is less than 12 months in length will be used to determine if the facility met all of the criteria necessary to be classified as an IRF for the next cost reporting period. For cost reporting periods beginning on or after November 1, 2004, data from the most recent, consecutive, and appropriate 12-month period of time (as defined by CMS or the fiscal intermediary) would be used, giving the ROs and FIs a 4-month time period to administer a compliance determination.

3. Guideline For Determining The Compliance Review Period Of A Facility Classified As A New IRF, And For An IRF Expanding Its Size. In order for an IRF to be classified as a new IRF, or to add new bed capacity, it must meet the criteria specified in the regulations and below in §140.1.7. A facility classified as a new IRF, or adding new bed capacity, will have a compliance review period that is similar to an IRF whose cost reporting period begins on July 1, 2004. In other words, a facility classified as a new IRF, or adding new bed capacity, will have a compliance review period that starts immediately when its cost reporting period starts, and ends four months before the start of its next cost reporting period. For example, if a facility has a cost reporting period that starts on July 1, 2004, and is a new IRF, its compliance review period would start on July 1, 2004, and end on February 28, 2005. Thus, a facility classified as a new IRF, or adding new bed capacity, will have *an initial* compliance review period that is 8 months in length, in order to allow the RO and FI a 4-month time period to make and administer a compliance determination.

The compliance threshold for a facility classified as a new IRF, or adding new bed capacity, that had a cost reporting period that started on or after June 30, 2003, *but not later than* July 1, 2004, will be 50 percent.

4. Guideline For Determining The Compliance Review Period Of A Facility Undergoing Conversion To An IRF. A facility undergoing the conversion process in order to be classified as an IRF, will have a compliance review period that is similar to an IRF whose cost reporting periods begins on July 1, 2004. In other words, a facility undergoing the conversion process in order to be classified as an IRF, will have a compliance review period that starts immediately when the cost reporting period starts, and ends four months before the start of its next cost reporting period. For example, if a

facility has a cost reporting period that starts on July 1, 2004, and is undergoing the conversion process in order to be classified as an IRF, its compliance review period would start on July 1, 2004, and end on February 28, 2005. Thus, if a facility is undergoing the conversion process in order to be classified as an IRF, it will have a compliance review period that is 8 months in length, in order to allow the RO and FI a 4-month time period to make and administer a compliance determination.

The compliance threshold for a facility undergoing the conversion process in order to be classified as an IRF, that had a cost reporting period that started on or after June 30, 2003, *but not later than* July 1, 2004, will be 50 percent.

5. Guideline For Determining The Compliance Review Period Of A Facility That Changes Its Cost Reporting Period. A facility that changes its cost reporting period will have a compliance review period that, in accordance with the above table, is based on its new cost reporting period.

#### B. Types of Data Used to Determine Compliance with the Classification Criteria

1. Starting on July 1, 2004, the FI will use the verification procedures specified below in subsection C *which is entitled "Verification of the Medical Condition Criterion Using the Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF-PAI) Data Records" or subsection D which is entitled "Verification of the Medical Condition Criterion Using the Inpatient Rehabilitation Facility's Total Inpatient Population"* to verify that an IRF has complied with the requirements specified above in §140.1.1B.

2. The verification procedure specified below in subsection C *which is entitled "Verification of the Medical Condition Criterion Using the Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF-PAI) Data Records"* will only be used if the FI verifies that the IRF's Medicare Part A fee-for-service inpatient population reflects what is the IRF's total inpatient population. The IRF's Medicare Part A fee-for-service inpatient population reflects what is the IRF's total inpatient population only if the IRF's total inpatient population is made up of 50 percent or more of Medicare Part A fee-for-service inpatients.

3. General Guideline Regarding Submission of a Listing of the IRF's Inpatients: In order to verify that the IRF's Medicare Part A fee-for-service inpatient population reflects what is the IRF's total patient population, the FI in writing will instruct the IRF to send to the FI, by a specific date, a list showing the hospital number the IRF assigned to each inpatient that the IRF admitted during a most recent, consecutive, and appropriate 12-month period, as that time period is defined by the CMS or the FI.

a. Exception to the General Guideline: The Secretary of Health and Human Services can declare a Public Health Emergency under section 319 of the Public Health Service Act or another appropriate statute, and the President can declare

either a National Emergency under the National Emergencies Act or a Major Disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or other appropriate law. In accordance with such declarations there may be occasions when in specific geographic areas for a definite time period the requirements stipulated in certain regulations or operational policies are waived. If applicable, in accordance with the waiver provisions, the IRF may be permitted to admit patients, referred to in this section as national emergency or disaster inpatients, who otherwise would be admitted to another inpatient setting. An IRF's national emergency or disaster inpatients *will not be* included as part of the IRF's total inpatient population when the IRF's compliance with the requirements specified in §140.1.1B *is determined by the FI reading a sample of medical records. Therefore, when the IRF submits the list of hospital numbers stipulated above in section 140.1.4B3, the IRF will identify each national emergency or disaster inpatient by placing either the capital letter "E" or "D" after the hospital number the IRF assigned to its national emergency or disaster inpatients. Such identification will allow the FI to exclude these hospital numbers when the FI is determining the hospital numbers that the FI will use to select a sample of medical records.* The IRF should appropriately document in the medical record sufficient information that identifies an inpatient as a national emergency or disaster inpatient.

4. For each inpatient represented by an inpatient hospital number on the list the IRF must include the payer the IRF can bill, or has billed, for the treatment and services the IRF has furnished to the inpatient. If an inpatient represented by an inpatient hospital number on the list has multiple payers that the IRF can bill, or has billed, the IRF must include and specify each type of payer. In addition, for each inpatient represented by an inpatient hospital number on the list the IRF must include the IRF admission and discharge dates.

5. The FI will use the list of hospital numbers to determine what was the IRF's total inpatient population during a most recent, consecutive, and appropriate 12-month period, as that time period is defined by CMS or the FI. The FI will then refer to the preceding "Table of Compliance Review Periods" and specifically the column labeled "Compliance Percentage Threshold Associated with a Compliance Review Period or Portions of the Compliance Review Period." The column illustrates that a cost reporting period may have a compliance review period which consists of one or two portions of time. After the FI has determined the IRF's total inpatient population during a 12-month period, if, as illustrated in the column, the compliance review period consists of only one portion of time then for that portion of time the FI will determine if at least 50 percent of the IRF's total inpatient population was covered under Medicare Part A fee-for-service.

- *For example, the column labeled "Compliance Percentage Threshold Associated with a Compliance Review Period or Portions of the Compliance Review Period" illustrates that the cost reporting period which will start on 05/01/2007 has a compliance review period consisting of 12 months which is not divided into two portions of time. Therefore, the FI will determine if during the entire 12 months at least 50 percent of the IRF's total inpatient population was covered under Medicare Part A fee-for-service.*

However if, as illustrated in the column, the compliance review period consists of two portions of time then for each portion of time the FI will separately determine if the Medicare Part A fee-for-service inpatient population was at least 50 percent of the entire inpatient population which the IRF treated during the same portion of time.

- *For example, the column illustrates that the cost reporting period which will start on 07/01/2007 has a compliance review period that is divided into two portions of time with one portion of time being 4 months and the other 8 months. Therefore, the FI will consider each portion of time independently and determine if during the 4-month portion of time at least 50 percent of the IRF's total inpatient population was covered under Medicare Part A fee-for-service, and if during the 8-month portion of time at least 50 percent of the IRF's total inpatient population was covered under Medicare Part A fee-for-service.*

A determination by the FI, in accordance with the preceding methodologies, that the IRF's Medicare Part A fee-for-service inpatient population was at least 50 percent of the matching entire inpatient population allows the FI to use the procedure stipulated below in subsection C, which is entitled "Verification of the Medical Condition Criterion Using the Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF-PAI) Data Records," to presumptively determine if the IRF met the compliance threshold as specified above in §140.1.1B. However, in addition to the above process, the FI may, at the FI's discretion, sample and compare other parameters (that is, diagnoses, procedures, length-of-stay, or any other relevant parameter) to determine that the Medicare Part A fee-for-service population is representative of the IRF's total inpatient population.

6. The FI will inform the RO if an IRF fails to send the list showing the hospital number the IRF assigned to each inpatient that the IRF admitted during a most recent, consecutive, and appropriate 12-month period, as that time period is defined by the FI, or if the list of inpatient hospital numbers does not include the payer or payers, and the admission and discharge dates that correspond with the inpatients whose hospital numbers are shown on the list. The RO will notify the IRF that failure to send the FI the list within an additional 10 calendar days will result in a determination by the RO that the IRF has not met the requirements specified above in §140.1.1B.

#### C. Verification of the Medical Condition Criterion Using the Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF-PAI) Data Records

1. In order to determine if a facility has presumptively complied with the criteria specified above in §140.1.1B, CMS will enable the FI to access CMS' IRF-PAI data records. Specifically, each FI will be allowed to access only the IRF-PAI information submitted by the IRFs that submit claims to that FI. In order to ensure that each FI will be allowed to access only the IRF-PAI information submitted by IRFs that submit claims to that FI, CMS obtained information from the FIs in order to create software that matched each FI to the IRFs that submit claims to it. However, over time an FI may have additional IRFs that submit claims to it, or may have IRFs that no longer submit claims to it. Therefore, in order to ensure that the software that matches an IRF to

the FI to which the IRF submits claims is constantly updated by the 15<sup>th</sup> calendar day of each month, starting on February 15, 2005, the FI will electronically submit to the RO a table that has at least the following title and column headings:

FI List Of IRFs Of The FI (Then Specify The FI's Name)

The Name of An IRF That Submits Claims To This FI	The Provider Number Of This Same IRF That Submits Claims To This FI	The Cost Reporting Period Of This Same IRF	Is This Still The FI That The IRF Has Selected to Process Its Claims?	Is This IRF Submitting Claims To This FI For The First Time?
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Each row of this table will specify the name of an IRF that submits claims to that FI, and in the other columns of that row the FI will specify the appropriate information associated with that specific IRF.

The RO then, after checking the FI's table for completeness and, as necessary, communicating with the FI to assure the information in the table is accurate, will forward the FI's table to the CMS contractor that maintains the IRF-PAI database. The CMS contractor that maintains the IRF-PAI database will then, if necessary, update the IRF-PAI database software the FI uses to presumptively verify compliance with the requirements specified in §140.1.1B. The FI must coordinate with their CMS RO to obtain privileges in order to obtain access to the software system that uses the IRF-PAI information to determine presumptive compliance with the requirements specified above in §140.1.1B. The FI will provide the RO with user information from all the FI staff that are required to access the IRF-PAI data records.

2. When the FI accesses the IRF-PAI data records the FI will be able to generate a report using the IRF-PAI information which was previously submitted by the IRFs that submit claims to that FI. The software that the FI will use to generate the report will automatically use the specific ICD-9-CM and impairment group codes that are listed in this chapter in Appendix A to determine if a particular IRF is presumptively in compliance with the requirements specified above in §140.1.1B. Prior to generating a report that the FI will use to determine if the IRF has presumptively complied with the requirements specified above in §140.1.1B, the FI must allow the IRF to decide if the IRF prefers the data records that the FI will use to generate the report to be either the IRF-PAI data records of patients who were admitted during the IRF's compliance review period regardless if these patients were discharged during the compliance review period, or patients discharged during the IRF's compliance review period regardless if these patients were admitted during the compliance review period.

*Below are the sections of the report with example data.*

<i>State</i>	<i>Provider Number</i>	<i>Provider Name</i>	<i>Cost Report Period</i>	<i>Compliance Review Period</i>
<i>Any State</i>	<i>IRF Number</i>	<i>Best Rehab</i>	<i>08/01/2008</i>	<i>04/01/2007 To 03/31/2008</i>

<i>Initial 4 Month Review Period</i>	<i>Submitted Assessments</i>	<i>Eligible Assessments</i>	<i>Percent</i>
<i>04/01/2007 To 07/31/2007</i>	<i>100</i>	<i>60</i>	<i>60 %</i>

<i>Subsequent Review Period</i>	<i>Submitted Assessments</i>	<i>Eligible Assessments</i>	<i>Percent</i>
<i>08/01/2007 To 03/31/2008</i>	<i>200</i>	<i>130</i>	<i>65 %</i>

*The submitted assessments section identifies all the IRF-PAI data records that the IRF submitted to the IRF-PAI database during the dates specified in the initial 4 month review period or subsequent review period. The eligible assessments are the assessments submitted during the dates specified in the initial 4 month review period or subsequent review period that, in accordance with the Appendix A instructions, matched one of the codes in Appendix A of this chapter. The cost reporting period shown is when the facility's next cost reporting period starts.*

*As illustrated in the above Table of Compliance Review Periods, the compliance review period sometimes is divided into portions of time. When the Table of Compliance Review Periods shows that the compliance review period is divided into two portions of time, then either of the following two methods may be used to ascertain whether the IRF met the compliance requirements described in §140.1.1B: (1) Each portion of the compliance review period meets a particular compliance percentage as specified in the above Table of Compliance Review Periods; or (2) A weighted average calculated from the compliance percentage associated with each portion of time of the compliance review period may be used to meet the compliance threshold requirements that are described more fully above in §140.1.1B. (How to calculate a weighted average is described in §140.1.4(c)(ii) and (e)(ii).)*

*The following examples illustrate when the compliance review period is divided into two portions of time, the two methods that the FI may use to determine if the IRF*

*presumptively met the compliance requirements which are more fully described above in §140.1.1B. If the IRF presumptively meets the compliance requirements when the FI uses either method then it is determined that the IRF presumptively meets the compliance requirements described in §140.1.1B.*

- An IRF with a cost reporting period starting on 08/01/07 has a compliance review period of 04/01/2007 to 03/31/2008 but that 12-month period is divided into two portions one of which is 04/01/2007 to 07/31/2007 and another of 08/01/2007 to 03/31/2008. As shown in the Table of Compliance Review Periods the portion of the compliance review period that is 04/01/2007 to 07/31/2007 had to meet a compliance threshold of 60 percent, and the 08/01/2007 to 03/31/2008 portion had to meet a compliance threshold of 65 percent. The data in the above report sections shows that 60 percent of the patients during 04/01/2007 to 07/31/2007 and 65 percent of the patients during 08/01/2007 to 03/31/2008 presumptively met the compliance percentage requirements specified above in §140.1.1B.*
- Using the compliance percentage data for each portion of the compliance review period that is described in the above example, one weighted average compliance percentage for the entire 12-month compliance review period may be calculated. The weighted average compliance percentage for the entire 12-month compliance review period is 63.4 percent which is rounded to 63 percent. Using the weighted average method to determine one compliance percentage means that the example data from the presumptive report would result in the IRF not meeting the compliance threshold of 65 percent for the cost reporting period that will start on 08/01/07.*

*As shown in the Table of Compliance Review Periods the cost reporting period of an IRF can result in the compliance review period not being divided into two portions. When the compliance review period is not divided into two portions the FI must use the data from the report sections to perform additional calculations in order to determine the percentage of patients who presumptively met the compliance percentage requirements specified above in §140.1.1B.*

- For example, an IRF with a cost reporting period starting on 08/01/06 would have a compliance review period of 04/01/2006 to 03/31/2007 and that 12-month period is not divided into two portions. To determine the compliance percentage the IRF presumptively attained during the compliance review period of 04/01/2006 to 03/31/2007, the FI will generate a report with sections as illustrated below. The data shown in the following presumptive report sections allow this example to be used to specify how the FI will determine the compliance percentage.*

<i>State</i>	<i>Provider Number</i>	<i>Provider Name</i>	<i>Cost Report Period</i>	<i>Compliance Review Period</i>
<i>Any State</i>	<i>IRF Number</i>	<i>Excellent Rehab</i>	<i>08/01/2007</i>	<i>04/01/2006 To 03/31/2007</i>

<i>Initial 4 Month Review Period</i>	<i>Submitted Assessments</i>	<i>Eligible Assessments</i>	<i>Percent</i>
<i>04/01/2006 To 07/31/2006</i>	<i>114</i>	<i>57</i>	<i>50 %</i>

<i>Subsequent Review Period</i>	<i>Submitted Assessments</i>	<i>Eligible Assessments</i>	<i>Percent</i>
<i>08/01/2006 To 03/31/2007</i>	<i>200</i>	<i>140</i>	<i>70 %</i>

*The format of this report is similar to the format of the report that the FI will generate if the compliance review is divided into two portions of time. However, because in this example the compliance review period is not divided into two portions of time the FI disregards the percentages shown in the report sections and instead performs additional calculations to determine the compliance percentage. When the compliance review period is not divided into two portions the following two methods shows how the data from the above report sections is used to calculate the compliance percentage. Each method results in the same percentage.*

**Method 1:**

*In this example, the total number of patients in the entire compliance review period is 314.*

*The report shows that of the submitted assessments during a 4-month period 57 of 114 patients presumptively met at least one the conditions listed above in §140.1.1C.*

*The report shows that of the submitted assessments during an 8-month period 140 of 200 patients presumptively met at least one of the conditions listed above in §140.1.1C.*

$$57/114=0.5000 \quad 140/200=0.7000$$

$$114/314=0.363 \quad 200/314=0.637$$

$$0.5000 \times 0.363 = 0.1815$$

$$0.7000 \times 0.637 = 0.4459$$

$$0.1815 + 0.4459 = 0.6274 \text{ and this is rounded to 63 percent.}$$

**Method 2:**

*In this example, the total number of patients in the entire compliance review period is 314.*

*The report shows that of the submitted assessments during a 4-month period 57 of 114 patients presumptively met at least one the conditions listed above in §140.1.1C.*

*The report shows that of the submitted assessments during an 8-month period 140 of 200 patients presumptively met at least one of the conditions listed above in §140.1.1C.*

$$57 + 140 = 197$$

$$197/314 = 0.627388 \text{ and this is rounded to 63 percent.}$$

*In this example, the cost reporting period started on 08/01/06 and during the compliance review period of 04/01/2006 to 03/31/2007 the provider presumptively attained a compliance percentage of 63 percent. The compliance threshold that the provider had to meet during the compliance review period was 60 percent.*

3. An IRF whose inpatient Medicare Part A fee-for-service population reflects its total inpatient population and that, according to the report generated using the procedure specified above in subsection C2, is verified by the FI to have met the requirements specified above in §140.1.1B will be presumed by the FI as having a total inpatient population that meets the requirements specified above in §140.1.1B. However, even when an IRF is presumed to have met the requirements specified above in §140.1.1B, the RO and FI still have the discretion to instruct the IRF to send to the RO or FI specific sections of the medical records of a random sample of inpatients, or specific sections of the medical records of inpatients identified by other means by CMS or the FI.

4. The CMS Central Office and RO staff have the discretion to require that each FI, on a quarterly or more frequent basis, submit a report that shows the status of the level of compliance by a FI's IRFs with the requirements specified above in §140.1.1B.

5. Appendix A to this chapter lists the ICD-9-CM and IRF-PAI impairment group codes, that will be used to determine presumptive compliance with the requirements specified above in §140.1.1B.

D. Verification of the Medical Condition Criterion Using the Inpatient Rehabilitation Facility's Total Inpatient Population

1. The FI must use the IRF's total inpatient population to verify that the IRF has met the requirements specified above in §140.1.1B if: (i) the IRF's Medicare population does not reflect its total patient population; or (ii) if the FI is unable to generate a valid report using the IRF-PAI database methodology specified previously; or (iii) if the FI generates a report which demonstrates that the IRF has not met the requirements specified above in §140.1.1B. In the case where the Medicare Part A fee-for-service inpatients comprise less than 50 percent of the IRF inpatient population, or the FI otherwise determines that the Medicare Part A fee-for-service inpatients are not representative of the overall IRF inpatient population, or the FI is unable to generate a valid report using the IRF-PAI methodology, the presumptive determination is that the IRF did not meet the requirements specified above in §140.1.1B.

2. As previously stated above, the FI will instruct the IRF to send the FI a list showing the hospital number the IRF assigned to each inpatient that the IRF admitted during a most recent, consecutive, and appropriate 12-month period, as that time period is defined by the FI. The list of inpatient hospital numbers must include the payer(s) and admission and discharge dates that correspond with the inpatients whose hospital numbers are shown on the list. The FI will then use generally accepted statistical sampling techniques to determine from the list what is a statistically appropriate random sample number of inpatients.

*When the compliance review period is divided into two portions of time, the total inpatient population during each portion of time is separately determined and a sample will then be separately selected from the total inpatient population of each portion of time. However, regardless if the compliance review period is or is not divided into two portions of time, the use of generally recognized statistical sampling principles may result in a determination that it would be inappropriate to use a sample to determine the compliance percentage or percentages attained by the facility. If a determination is made that it is inappropriate to use statistical sampling then the entire inpatient population will be used to determine the compliance percentage.*

Prior to selecting the sample number of inpatients, the FI must allow the IRF to decide if the IRF wants the sample to contain either the patients who were admitted during the IRF's compliance review period regardless if these patients were discharged during the compliance review period, or the patients discharged during the IRF's compliance review period regardless if these patients were admitted during the compliance review period.

If the confidence level of the statistic derived from the sample is not at least 95 percent then the FI will adjust the sample or if necessary use the entire inpatient population to determine if the IRF meets the requirements as specified above in §140.1.1B. In addition, if an IRF during a most recent, consecutive, and appropriate 12-month period, as that time period is defined by the FI, had a total inpatient population of 100 inpatients or less, the FI will use the total inpatient population that consists of Medicare and non-Medicare inpatients as the random sample size.

The FI will instruct the IRF to send it copies of specific sections of the medical records of inpatients, using the random sample of inpatients selected from the list to identify which inpatients are selected. The FI has the discretion to decide which specific sections of the medical records of the inpatients to obtain, provided that the requested medical record sections contain enough information to allow the FI's reviewers to determine what was the inpatient's medical condition(s) that the IRF treated. In addition to submitting to the FI the sections of the medical records of the random sample inpatients specified by the FI, the IRF has the discretion to send the FI other clinical information regarding these same inpatients. The admission and discharge dates as specified in the medical record sections obtained by the FI must be for the most recent, consecutive, and appropriate 12-month period as defined by CMS or the FI.

3. The FI will examine the medical records sections obtained and determine if the IRF meets the requirements as specified above in §140.1.1B. When determining if a specific inpatient matches one of the medical conditions specified in §140.1.1C, the FI may use the ICD-9-CM and impairment group codes specified below in Appendix A to this chapter as guidance, or make that determination based upon only the medical judgment of its reviewer(s), or use a combination of both methods. In general, when the FI is using a sample of medical records to determine compliance by the IRF with the requirements in §140.1.1B, the FI always has the discretion to determine if a patient meets or does not meet any of the medical conditions listed in §140.1.1C based upon a review of the clinical record, regardless of the presumptive test methodology described above. In other words, the compliance percentage that is determined by the FI obtaining information from a sample of medical records will supersede the compliance percentage that was determined for the same compliance review period by the FI using the presumptive method. In order to promote a compliance percentage determination process that is similar for all IRFs, the FI must have written policies that describe the reasons for the FI using a random sample of medical records to determine the compliance percentage when the FI has already determined by the presumptive method that the IRF met the compliance threshold.

4. The FI will inform the RO if an IRF fails to provide information in accordance with the requirements specified above in subsection D2. The RO will notify the IRF that failure to provide the FI with the information in accordance with the requirements specified above in subsection D2 will result in a determination by the RO that the IRF has not met the requirements specified above in §140.1.1B.

E. By the 15<sup>th</sup> day of the each month, the FI responsible for determining the compliance percentage an IRF achieved in accordance with either of the methods specified above in §§140.1.4C or 140.1.4D will submit a report via e-mail. Instructions regarding the format of the report, how to complete the report, and where to send it are specified at the following website:

[http://www.cms.hhs.gov/InpatientRehabFacPPS/03\\_Criteria.asp](http://www.cms.hhs.gov/InpatientRehabFacPPS/03_Criteria.asp)

F. If a rehabilitation hospital is currently accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the criteria specified above in §140.1.1E-H will be presumed to have been met. However, in all instances the FI must verify that the requirements specified above in §140.1.1B were met. In addition, the State Agency is required to verify that the rehabilitation hospital has a Director of Rehabilitation who meets the requirements specified above in §140.1.1I.

G. If a rehabilitation hospital is not currently accredited by CARF then the State Agency will determine whether the criteria specified above in §140.1.1E-I were met. In addition, in all instances the FI must verify that the requirements specified above in §140.1.1B were met.

H. If a rehabilitation unit is currently accredited by CARF the criteria specified above in §140.1.1E-H will be presumed to be met. However, in all instances the FI must verify that the criteria specified above in §140.1.3N-O were met. In addition, the FI must verify that the accounting criteria specified above in §140.1.3G-K, have been met. Also, the State Agency is required to verify that the rehabilitation unit meets the requirements for a Director of Rehabilitation as specified above in §140.1.3Q.

I. If a rehabilitation unit is not currently accredited by CARF then the State Agency is required to determine if the criteria specified above in §140.1.1E-H has been met. In all instances the FI must verify that the criteria specified above in §140.1.3N-O were met. In addition, the FI must verify that the accounting criteria specified above in §140.1.3G-K, and that the criteria specified below in §140.1.6 have been met. The State Agency is required to verify that the rehabilitation unit meets the requirements for a Director of Rehabilitation as specified above in §140.1.3Q.