

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 466	Date: MARCH 27, 2009
	Change Request 6444

SUBJECT: Implementation of Indirect Medical Education (IME) and Long Term Care Hospital (LTCH) Provisions from the American Recovery and Reinvestment Act (ARRA) of 2009

I. SUMMARY OF CHANGES: This change request provides implementing instructions on provisions of the ARRA of 2009 that affect the Medicare fee-for-service program.

New / Revised Material

Effective Date: February 17, 2009

Implementation Date: April 6, 2009

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
N/A	

III. FUNDING:

SECTION A: For Fiscal Intermediaries and Carriers:

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

SECTION B: 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:

One-Time Notification

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

Attachment – One-Time Notification

Pub. 100-20	Transmittal: 466	Date: March 27, 2009	Change Request: 6444
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SUBJECT: Implementation of Indirect Medical Education (IME) and Long Term Care Hospital (LTCH) Provisions from the American Recovery and Reinvestment Act (ARRA) of 2009

Effective Date: February 17, 2009

Implementation Date: April 6, 2009

I. GENERAL INFORMATION

A. Background: The ARRA was signed into law on February 17, 2009. This Change Request provides a summary of the legislation as well as implementation instructions on certain provisions that affect the Medicare Fee-for-Service program.

B. Policy:

Capital IME

In the Fiscal Year (FY) 2008 Inpatient Prospective Payment System (IPPS) final rule, we adopted a policy to phase-out the capital IPPS teaching adjustment. For FY 2009, hospitals would receive 50 percent of the IME adjustment provided under the current formula. Section 4301(b) of the ARRA removes the 50 percent adjustment that applied for FY 2009 and gives teaching hospitals the full capital IME amount for discharges occurring on or after October 1, 2008 through September 30, 2009.

This provision also affects LTCH PPS payments as part of the Short Stay Outlier (SSO) calculation. Currently, SSO cases are paid the lesser of: (1) 100 percent of the estimated cost of the case; (2) 120 percent of the per diem amount for the Medicare Severity Long Term Care Diagnosis Related Group (MS-LTC-DRG); (3) the full MS-LTC-DRG payment; or (4) a blend of an amount comparable to the IPPS per diem amount and the 120 percent of the MS-LTC-DRG specific per diem amount (see §412.529(c)(2)). To determine the payment amount under the fourth option in the current SSO payment formula (that is, the “blend” of the IPPS comparable amount and the 120 percent MS-LTC-DRG per diem amount), in calculating the “IPPS comparable amount” component of the blend, we include an “IPPS comparable IME adjustment” in the case of a LTCH that has an approved teaching program. Therefore, the revision to the capital IPPS IME adjustment for FY 2009 provided for by §4301(b) of the ARRA also affects the payments for some SSO case from LTCHs with teaching programs since the calculation of the “IPPS comparable amount” component of the SSO “blend” option must also be revised to reflect the change to the capital IME adjustment for FY 2009 provided for in the ARRA. In the same way as with the SSO calculation, changes to the capital IME payments specified by the ARRA of 2009 affect LTCH PPS payments governed by the “25 percent” threshold payment adjustments (see §§412.534 and 412.536). Under these policies, those cases in excess of the applicable thresholds are paid an amount based on an amount equivalent to what would be paid under the IPPS. Therefore, the revision to the capital IPPS IME adjustment for FY 2009 provided for in §4301(b) would apply to those LTCHs with teaching programs.

LTCH

The ARRA makes two changes that affect LTCHs. First, the Medicare, Medicaid and SCHIP Extension Act (MMSEA) of 2007 placed a moratorium on new LTCHs or new LTCH satellites and expansions in the number of beds in existing LTCHs, effective December 29, 2007. MMSEA allowed for limited exceptions to the moratorium. The ARRA makes one additional exception to the moratorium that will allow existing LTCHs to expand the number of beds if the hospital or facility obtained a certificate of need (CON) for an increase in beds

in a State for which such certificate of need is required and that was issued on or after April 1, 2005, and before December 29, 2007. As with the exceptions specified under MMSEA, this additional exception will be implemented, under procedures already established, by State Survey Agencies, CMS Regional Offices, and Fiscal Intermediaries/Medicare Administrative Contractors.

Second, CMS' regulations create special payment provisions for LTCHs or LTCH satellites that receive more than 25 percent of their admissions from a single referral source. For cases in excess of this threshold, (unless the case was a high-cost outlier at the referring hospital) the LTCH would be paid the lesser of an otherwise unadjusted payment under the LTCH PPS or an IPPS-comparable payment amount for each discharge. The MMSEA delayed the application of the 25 percent payment provision for 3 years for LTCHs that are "freestanding," i.e., not co-located with another hospital, and for LTCH hospitals-within-hospitals (HwHs) that are "grandfathered," i.e., in existence prior to September 30, 1995. The MMSEA also increased the percentage thresholds under this policy so that LTCHs that were transitioned from 50 percent to the 25 percent threshold and those LTCHs that would stay at 50 percent for cost reporting periods beginning on or after October 1, 2007, would, respectively, be increased to a 50 percent and a 75 percent threshold for 3 years. The ARRA amended the MMSEA changes to the 25 percent threshold policy by adding another category of LTCHs that would be subject to the 3-year delay in application of the 25 percent payment provision, i.e., LTCHs or LTCH satellites that were co-located with provider-based locations of an IPPS hospital that did not deliver services payable under the IPPS at those campuses where the LTCHs or LTCH satellites were located. The ARRA also extended the increase in percentages under the 25 percent threshold policy to "grandfathered" LTCH satellites, i.e., those in existence prior to October 1, 1999 and changed the implementation date of all changes to the 25 percent threshold payment adjustment from the date of enactment of the MMSEA (December 29, 2007), to either July 1, 2007 or October 1, 2007, as appropriate for the specific provision.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)								
		A / B M A C	D M E M A C	F I	C A R R I E R	R H I	Shared-System Maintainers			
						F I S S	M C S	V M S	C W F	
6444.1	FISS shall install a revised FY 2009 IPPS Pricer.						X			
6444.1.1	Contractors shall adjust IPPS teaching hospital claims with discharges on or after October 1, 2008 within six months of the Pricer production date.	X		X						
6444.2	FISS shall install a revised FY 2009 LTCH PPS Pricer.						X			
6444.2.1	Contractors shall adjust the short-stay outlier claims of LTCHs with a teaching program with discharges on or after October 1, 2008 within six months of the Pricer production date.	X		X						
6444.3	Contractors shall install the IPPS and LTCH PPS Pricers into production within three weeks of receipt from FISS.	X		X						
6444.4	Contractors shall forward a report to their Project Officer/Contractor Manager and Sarah.Shirey-Losso@cms.hhs.gov once the adjustments are completed This report shall include: <ul style="list-style-type: none"> The total number of teaching IPPS hospital claims adjusted 	X		X						

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I	C A R R I E R	R H H I	Shared-System Maintainers				OTHER
							F I S S	M C S	V M S	C W F	
	<ul style="list-style-type: none"> The total number of SSO LTCH PPS claims adjusted The cost of performing the adjustments In addition, the report shall include the number and cost of hospice claims (refer to CR 6418).										
6444.5	Contractors shall follow the same procedures outlined in CR 6172 for the CON exception for increases in LTCH beds.	X		X							

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I	C A R R I E R	R H H I	Shared-System Maintainers				OTHER
							F I S S	M C S	V M S	C W F	
6444.6	A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ 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.	X		X							

IV. SUPPORTING INFORMATION

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

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
All	This CR is in follow-up to Joint Signature Memorandum/Technical Direction Letter 09186. Note that contractors now have three weeks to install Pricer. This is a change from the JSM/TDL instructions.
6444.2.1	The affected LTCH claims are SSO cases from an LTCH with a teaching program, and have Pricer return code 22 or 25.

Section B: For all other recommendations and supporting information, use this space: N/A

V. CONTACTS

Pre-Implementation Contact(s): Sarah Shirey-Losso (Pricers) at (410) 786-0187, Michele Hudson (Capital IME) at (410) 786-5490, and Judy Richter (LTCH) at (410) 786-2590

Post-Implementation Contact(s): Regional Office

VI. FUNDING

Section A: For *Fiscal Intermediaries (FIs)*, *Regional Home Health Intermediaries (RHHIs)*, and/or *Carriers*:

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

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

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