

**PROVIDER REIMBURSEMENT REVIEW BOARD  
DECISION**

2025-D41

**PROVIDER –**  
Jersey Shore University Medical Center

**HEARING HELD –**  
April 18, 2024

**PROVIDER NO. –** 31-0073

**FISCAL YEAR–** 2022

**vs.**

**MEDICARE CONTRACTOR –**  
Novitas Solutions, Inc. c/o GuideWell Source

**CASE NO. –** 22-1130

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**ISSUE STATEMENT:**

Whether Jersey Shore University Medical Center (“JSUMC” or “Jersey Shore”), is subject to a two-percentage point reduction in the Fiscal Year (“FY”) 2022 annual payment update (“APU”) for alleged non-compliance with the requirements for the inpatient psychiatric facility quality reporting (“IPFQR”) program.<sup>1</sup>

**DECISION:**

After considering Medicare law and regulations, the arguments presented, and the evidence admitted, the Provider Reimbursement Review Board (“Board” or “PRRB”) finds that CMS’ decision to reduce JSUMC’s FY 2022 APU by two percentage points was correct.

**INTRODUCTION:**

JSUMC is an acute care inpatient hospital located in Neptune, New Jersey.<sup>2</sup> JSUMC includes an Inpatient Psychiatric Facility (“IPF”) subunit.<sup>3</sup> The Medicare administrative contractor assigned to JSUMC is Novitas Solutions, Inc. (“Medicare Contractor”).<sup>4</sup>

In a letter dated September 8, 2021, CMS notified JSUMC that CMS would reduce the APU to JSUMC by two percentage points in FY 2022.<sup>5</sup> In a letter dated January 7, 2022, CMS notified JSUMC that CMS had reviewed JSUMC’s reconsideration request and “decided uphold the decision to apply the reduced FY 2022 Annual Payment Update.”<sup>6</sup> On June 22, 2022, JSUMC timely appealed that decision to the Board and met the jurisdictional requirements for a hearing.

The Board held a live hearing via Zoom on April 18, 2024. Loretta Marie Orlando, Esq., of Hackensack Meridian Health, represented JSUMC and Joseph J. Bauers, Esq., of Federal Specialized Services, represented the Medicare Contractor.

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<sup>1</sup> Hearing Transcript of Proceedings (hereinafter “Tr.”) at 5 (Apr. 18, 2024).

<sup>2</sup> Medicare Contractor’s Preliminary Position Paper (hereinafter “Medicare Contractor’s PPP”) at 1 (Jun. 2, 2023); *see also* Tr. at 9. The Board notes references to JSUMC being a long-term care hospital at certain points in the Medicare Contractor’s PPP (*See*, Medicare Contractor’s PPP at 3, 5). Further, the Board notes references to a “one-quarter reduction of the APU for failure to comply with the [IPFQR] Program.” (Medicare Contractor’s PPP at 9). The Board has chosen to disregard these erroneous references in the Medicare Contractor’s PPP. The Board notes that the standard convention of the CCN/provider number identifies the type of hospital, and JSUMC’s provider numbers (31-0073 and 31-S073) clearly indicate an acute-care hospital with a psychiatric sub-provider. Further, it is clear that the law imposes a two percentage-point reduction to an IPF for non-compliance with the requirements of the IPFQR Program. *See* 42 U.S.C. § 1395ww(s)(4)(a)(i).

<sup>3</sup> Medicare Contractor’s PPP at 1.

<sup>4</sup> CMS’s payment and audit functions under the Medicare program were historically contracted to organizations known as fiscal intermediaries (“FIs”) and these functions are now contracted with organizations known as Medicare administrative contractors (“MACs”). The relevant law may refer to FIs and MACs interchangeably, and the Board will use the term “Medicare contractor” to refer to both FIs and MACs, as appropriate and relevant.

<sup>5</sup> Medicare Contractor Exhibit (hereinafter “Ex.”) C-1 (CMS Inpatient Psychiatric Facility Quality Reporting Program Withdrawn Notice of Participation Annual Payment Update Notification letter).

<sup>6</sup> Medicare Contractor Ex. C-2 (CMS Notification of Non-Compliance Decision Letter).

## **PROCEDURAL HISTORY:**

The parties' respective positions and the application of facts to the relevant law are covered, *infra*, in the Discussion, Findings of Fact, And Conclusions of Law. First, we look to the procedural history.

There are three dates, or date ranges, that are key to the IPFQR program: the period from which the data to be measured is collected (the "reporting period"), which for this appeal was calendar year 2020; the date or date range that the data must be reported (the "submission date"), which for this appeal was July 1 through August 16, 2021; and the federal fiscal year impacted by the payment reduction if the IPFQR program requirements are not met (the payment determination period), which for this appeal was federal FY 2022.<sup>7</sup>

### **Withdrawn Notice of Participation**

On June 28, 2018, JSUMC's Notice of Participation ("NOP") status was listed as "withdrawn" for FY 2019.<sup>8</sup> As discussed, *infra*, in the Discussion, Findings of Fact, And Conclusions of Law, neither party can pinpoint how or when the withdraw happened.

### **Annual Payment Update Notification**

As noted previously, in a letter dated September 8, 2021, CMS, through its Center for Clinical Standards and Quality ("CCSQ"), notified JSUMC that it failed to meet the IPFQR criteria for FY 2022, and that failure to meet these requirements would result in a two percentage-point reduction in the FY 2022 Annual Payment Update (APU).<sup>9</sup> The letter entitled "Inpatient Psychiatric Facility Quality Reporting Program Withdrawn Notice of Participation Annual Payment Update Notification Letter" includes the subject line, "Regarding: Annual Payment Update (APU) Decision for Jersey Shore University Medical Center, ***CMS Certification Number (CCN) 31S073.***"<sup>10</sup>

### **Reconsideration**

At some point between September 8, 2021, and January 7, 2022, JSUMC requested reconsideration of the September 8, 2021 determination.<sup>11</sup> Neither party submitted the original reconsideration request to the Board as part of the record.

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<sup>7</sup> See Tr. at 10 – 11.

<sup>8</sup> Ex. C-3 (Notice of Participation Summary Table).

<sup>9</sup> Medicare Contractor Ex. C-1 (CMS Inpatient Psychiatric Facility Quality Reporting Program Withdrawn Notice of Participation Annual Payment Update Notification letter).

<sup>10</sup> Emphasis added.

<sup>11</sup> See Ex. C-2 (Notice of Quality Reporting Program Noncompliance Decision Upheld) dated January 7, 2022.

### Noncompliance Decision Upheld

The January 7, 2022 Notice of Quality Reporting Program Noncompliance Decision Upheld, which includes the subject line, “Re: Fiscal Year 2022 Annual Payment Update for Jersey Shore University Medical Center CMS Certification Number **31S073** Inpatient Psychiatric Facility Quality Reporting Program”.<sup>12</sup> states in pertinent part:

In a letter dated September 8, 2021, CMS stated that Jersey Shore University Medical Center was subject to a penalty because it did not meet the requirements of the Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program. The requirement that facilities participating in the IPFQR Program report quality data to CMS is set forth in the code of Federal Regulations (CFR) at 42 CFR §§ 412.400 – 412.434. The FY 2022 IPFQR Program Final Rule can be found in the Federal Register (FR) at 85 FR 47042; annual updates to program requirements can be found at [www.federalregister.gov](http://www.federalregister.gov). CMS’s decision was based on noncompliance with the following IPFQR Program requirement(s):

- Have an IPFQR Program Notice of Participation Status of “Participating” for FY 2022<sup>13</sup>

### Appeal

On February 8, 2022, JSUMC wrote to CMS’s CCSQ Appeals and Reconsiderations Program Lead (“CCSQ Lead”) requesting “to appeal [CMS’ January 7, 2022 Notice of QRP Noncompliance Decision Upheld] through the Provider Reimbursement Review Board.”<sup>14</sup> The letter also includes the subject line referencing JSUMC’s CCN as “31S073.”<sup>15</sup>

In an April 25, 2022 email, the IPFQR Program VIQR Outreach and Education Support Center recommended that JSUMC contact the Provider Reimbursement Review Board directly regarding the status of its appeal.<sup>16</sup> The email’s subject line is “RE: CMS 310073” (*not 31S073 as before*).<sup>17</sup>

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<sup>12</sup> Ex. C-2 at C-0005 (Emphasis added).

<sup>13</sup> *Id.*

<sup>14</sup> Provider’s Ex. A.

<sup>15</sup> Provider’s Ex. A. The February 8, 2022 email included as Exhibit A contains a reference to a January 24, 2022 email that apparently sparked this investigation. That January 24, 2022 email is not included in the record.

<sup>16</sup> Provider’s Ex. B.

<sup>17</sup> *Id.*

On April 25, 2022, JSUMC contacted the Board's staff.<sup>18</sup> The Board's staff requested that JSUMC provide a copy of the denial it received from CMS' CCSQ Lead, but JSUMC's representative stated that she never received one.<sup>19</sup>

On May 12, 2022, JSUMC's representative, after several unanswered requests, finally received an email from CMS's CCSQ Lead, which was copied to Board staff.<sup>20</sup> The email's subject line again references "CMS 310073" (*not 31S073*) and states:

Upon reconsideration, CMS found that JSUMC was made aware of the need to update its NOP and updating the NOP was within its control. On this basis, CMS decided to uphold its original decision. (see Attachment 1 – JSUMC – **31S073** – Final Determination Letter.pdf and Attachment 2 – JSUMC – **31S073** – Final Determination Letter POD.pdf)<sup>21</sup>

Here, the CCN referenced in the email text is *different from* the CCN referenced in the Subject line, as the CCN referenced in the Subject line is that of the acute care provider and the CCN in the text is the psychiatric sub-unit of that acute care provider. The email concludes with instructions for requesting a hearing with the Board.<sup>22</sup>

## **HISTORICAL BACKGROUND AND STATEMENT OF RELEVANT LAW:**

### **Statutory Authority**

**IPF PPS payment rates.** In 1999, Congress implemented a per diem prospective payment system ("PPS") for inpatient hospital services furnished by psychiatric hospitals and units ("IPF PPS").<sup>23</sup> The IPF PPS was implemented for cost reporting periods beginning on or after January 1, 2005.<sup>24</sup> However, Congress did not specify a strategy for updating the IPF PPS payment rates, so the Secretary adopted an annual update methodology based on the approach being used for inpatient rehabilitation and long term care hospital PPS.<sup>25</sup>

**Quality reporting program for IPFs.** As part of the Patient Protection and Affordable Care Act of 2010 ("ACA"), Congress required the Secretary to implement a quality reporting program for

<sup>18</sup> Provider's Responsive Final Position Paper (hereinafter, "Provider's RFPP") at 1 (Mar. 19, 2024).

<sup>19</sup> *Id.*

<sup>20</sup> Provider's Ex. C.

<sup>21</sup> *Id.* (Emphasis added).

<sup>22</sup> *Id.*

<sup>23</sup> Pub. L. No. 106-113 (Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999), Appendix F, 113 Stat. 1501A-321, 1501A-332 (1999). The term "psychiatric hospitals and units" is defined as "a psychiatric hospital described in clause (i) of section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) and psychiatric units described in the matter following clause (v) of such section." *Id.*, Sec. 124(a)(3).

<sup>24</sup> 69 Fed. Reg. 66922, 66964-67 (Nov. 15, 2004).

<sup>25</sup> *Id.* at 66966, *stating* "In the proposed rule, we indicated that section 124 of Public Law 106-113 does not specify an update strategy for the IPF PPS and is broadly written to give the Secretary discretion in proposing an update methodology. Therefore, we reviewed the update approach used in other hospital prospective payment systems (specifically, the IRF and LTCH PPS update methodologies)."

IPFs starting with the FY 2014 payment determination.<sup>26</sup> Thus, as amended by the ACA, and as it appeared in the periods relevant to this case, 42 U.S.C. § 1395ww(s)(4) read:

(4) Quality reporting

(A) Reduction in update for failure to report

(i) In general

Under the system described in paragraph (1), for rate year 2014 and each subsequent rate year, in the case of a psychiatric hospital or psychiatric unit that does not submit data to the Secretary in accordance with subparagraph (C) with respect to such a rate year, any annual update to a standard Federal rate for discharges for the hospital during the rate year, and after application of paragraph (2), shall be reduced by 2 percentage points.

(ii) Special rule

The application of this subparagraph may result in such annual update being less than 0.0 for a rate year, and may result in payment rates under the system described in paragraph (1) for a rate year being less than such payment rates for the preceding rate year.

(B) Noncumulative application

Any reduction under subparagraph (A) shall apply only with respect to the rate year involved and the Secretary shall not take into account such reduction in computing the payment amount under the system described in paragraph (1) for a subsequent rate year.

(C) Submission of quality data

For rate year 2014 and each subsequent rate year, each psychiatric hospital and psychiatric unit shall submit to the Secretary data on quality measures specified under subparagraph (D). Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this subparagraph.<sup>27</sup>

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<sup>26</sup> Pub. L. No. 111-148, 124 Stat. 119, 483, 952 (2010), amending 42 U.S.C. § 1395ww(s)(4).

<sup>27</sup> 42 U.S.C. § 1395ww(s)(4) – The Board notes that the quoted material in the versions Effective December 20, 2019 to March 26, 2020, Effective March 27, 2020 to December 26, 2020, Effective December 27, 2020 to March 10, 2021, and Effective March 11, 2021 to September 29, 2022 are identical.

[\* \* \*]

### **Federal Register Preamble and Federal Regulations**

As required by 42 U.S.C. § 1395ww(s)(4)(A)(i), the Secretary finalized a two percentage-point reduction to the annual update “for any inpatient psychiatric hospital or psychiatric unit that does not comply with quality data submission requirements with respect to an applicable rate year.”<sup>28</sup> The Secretary adopted through notice and comment, though did not codify, quality data submission procedural requirements for FY 2014 payment determination and subsequent years:

In order to participate in the IPFQR Program for the FY 2014 payment determination and subsequent years, [...] IPFs must comply with the procedural requirements outlined below. ***We have aligned these procedural requirements with the Hospital IQR Program*** to avoid imposing additional burden on providers and to increase efficiencies by virtue of allowing providers to use similar submission requirements across programs. We proposed that facilities must do the following:

- Register with QualityNet before the IPF begins reporting, regardless of the method used for submitting the data.
- Identify a QualityNet Administrator who follows the registration process located on the QualityNet Web site (<http://www.qualitynet.org/>).
- Complete a Notice of Participation (NOP). IPFs that wish to participate in the IPFQR Program must complete an online NOP. Submission of an NOP is an indication that the IPF agrees to participate in the IPFQR Program and public reporting of their measure rates. The timeframe for completing the NOP is between January 1 and August 15 before each respective payment determination year. Accordingly, for the FY 2014 payment determination year, we proposed that the timeframe for completing the NOP would be between January 1, 2013 and August 15, 2013.
- Any IPF that receives a new CMS Certification Number (CCN) on or after the beginning of the respective payment determination year and wishes to participate in the IPFQR Program but has not otherwise submitted a NOP using the new CCN must submit a completed NOP no later than 180 days from the date identified as the open date (that is, the Medicare acceptance date) on the

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<sup>28</sup> 77 Fed. Reg. 53258, 53644 (Aug. 31, 2012).

approved CMS Quality Improvement Evaluation System to participate in the IPFQR Program.

- Withdrawals from the IPFQR Program will be accepted no later than August 15 before the beginning of each respective payment determination year. We believe the August 15 deadline will give us sufficient time to update payment determinations for each respective year. Accordingly, we proposed that the withdrawal period for the FY 2014 payment determination year be between January 1, 2013 and August 15, 2013. If in a given payment determination year, an IPF withdraws from the program, it will receive a reduction of 2.0 percentage points to that year's applicable percentage increase. Once an IPF has submitted a NOP, it is considered to be an active IPFQR Program participant until such time as the IPF submits a withdrawal form to CMS.
- We will determine if an IPF has complied with our data submission requirements by validating each IPF's CCN and their aggregated data submission on the QualityNet Web site.
- IPFs must submit the aggregated numerator and denominator data for all age groups, for all measures, to avoid the 2.0 percentage point reduction.<sup>29</sup>

In 2012, the Secretary finalized, but did not codify, the requirements for waivers from the quality reporting requirements for the FY 2014 payment determination and subsequent years.<sup>30</sup> An exception process from FY 2015 proposed rule was finalized as proposed “to align with similar exceptions provided for in other CMS quality reporting programs”; however, it was not codified until 2023.<sup>31</sup>

The quality reporting program for inpatient psychiatric hospitals and psychiatric units (i.e., the requirement that psychiatric facilities must submit their quality data measures in a form and manner, and at a time, specified by the Secretary) was codified at 42 C.F.R. § 412.433 in 2023.<sup>32</sup>

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<sup>29</sup> 77 Fed. Reg. at 53258, 53654 - 55 (Aug. 31, 2012), adopting the quality data submission procedural requirements as proposed in the in the FY 2013 IPPS/LTCH PPS proposed rule at 77 Fed. Reg. 27870 at 28112 – 13 (May 11, 2012) (emphasis added).

<sup>30</sup> 77 Fed. Reg. 53258 at 53659-60 (Aug. 31, 2012).

<sup>31</sup> 79 Fed. Reg. 45938 at 45978 (Aug. 6, 2014). Note that no changes were codified in the regulations at that time. The exception process from the FY 2015 proposed rule at 79 Fed. Reg. 26040 at 26072 – 26073 (May 6, 2014) was finalized as proposed.

<sup>32</sup> 88 Fed. Reg. 51161 (Aug. 2, 2023). While the Secretary established new quality measures after FY 2014, the form and manner, and timing of the quality data submission for FY 2014 and subsequent years did not change. *See, for example*, 78 Fed. Reg. 50496 at 50890 – 95 (Aug. 19, 2013), providing a discussion of FY 2016 measures. The Secretary also adopted (though did not codify) waivers from quality reporting requirements for FY 2014 payment determination and subsequent years. *See* 77 Fed. Reg. 53258 at 53659 (Aug. 31, 2012).



(a) **Statutory authority.** Section 1886(s)(4) of the Act requires the Secretary to implement a quality reporting program for inpatient psychiatric hospitals and psychiatric units. Under section 1886(s)(4) of the Act, for an IPF paid under the IPF PPS that fails to submit data required for the quality measures selected by the Secretary in a form and manner and at a time specified by the Secretary, we reduce the otherwise applicable annual update to the standard Federal rate by 2.0 percentage points with respect to the applicable fiscal year.

(b) **Participation in the IPFQR Program.** To participate in the IPFQR Program, an IPF (as defined under § 412.402) that is paid under the IPF PPS must:

(1) Register and maintain an account on the CMS-designated information system before beginning to report data, identification of a security official is necessary to complete such registration; and

(2) Submit a notice of participation (NOP).

(c) **Withdrawal from the IPFQR Program.** An IPF may withdraw from the IPFQR Program by changing the NOP status in the secure portion of the CMS-designated information system. The IPF may withdraw at any time up to and including August 15 before the beginning of each respective payment determination year. A withdrawn IPF is subject to a reduced annual payment update as specified under paragraph (a) of this section and is mandatory to renew participation as specified in paragraph (b) of this section in order to participate in any future year of the IPFQR Program.

(d) **Submission of IPFQR Program data.** In general, except as provided in paragraph (f) of this section, IPFs that participate in the IPFQR Program must submit to CMS data on measures selected under section 1886(s)(4)(D) of the Act and specified non-measure data in a form and manner, and at a time specified by CMS.

(e) **Quality measure updates, retention, and removal [...]**

(f) **Extraordinary circumstances exception.** CMS may grant an exception to one or more data submissions deadlines and requirements in the event of extraordinary circumstances beyond the control of the IPF, such as when an act of nature affects an entire region or locale or a systemic problem with one of CMS's data collection systems directly or indirectly affects data submission. CMS may grant an exception as follows:

- (1) Upon request by the IPF.
- (2) At the discretion of CMS. CMS may grant exceptions to IPFs that have not requested them when CMS determines that an extraordinary circumstance has occurred.

(g) ***Public reporting of IPFQR Program data.*** [...]

The Secretary adopted reconsideration and appeals procedures for the FY 2014 payment determination and subsequent years.<sup>33</sup> These procedures are codified at 42 C.F.R. § 412.434 (2021):

- a) An inpatient psychiatric facility may request reconsideration of a decision by CMS that the inpatient psychiatric facility has not met the requirements of the IPFQR Program for a particular fiscal year. An inpatient psychiatric facility must submit a reconsideration request to CMS no later than 30 days from the date identified on the IPFQR Program Annual Payment Update Notification Letter provided to the inpatient psychiatric facility.
- (b) A reconsideration request must contain the following information:
  - (1) The inpatient psychiatric facility's CMS Certification Number (CCN);
  - (2) The name of the inpatient psychiatric facility;
  - (3) Contact information for the inpatient psychiatric facility's chief executive officer and QualityNet system administrator, including each individual's name, email address, telephone number, and physical mailing address;
  - (4) A summary of the reason(s), as set forth in the IPFQR Program Annual Payment Update Notification Letter, that CMS concluded the inpatient psychiatric facility did not meet the requirements of the IPFQR Program;
  - (5) A detailed explanation of why the inpatient psychiatric facility believes that it complied with the requirements of the IPFQR Program for the applicable fiscal year; and
  - (6) Any evidence that supports the inpatient psychiatric facility's reconsideration request, such as emails and other documents.

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<sup>33</sup> See 77 Fed. Reg. 53258 at 53678 (Aug. 31, 2012).

(c) An inpatient psychiatric facility that is dissatisfied with a decision made by CMS on its reconsideration request may file an appeal with the Provider Reimbursement Review Board under part 405, subpart R of this chapter.

### **Additional Guidance:**

CMS provides various materials as guidance on reporting protocols and requirements. Those materials are found on the CMS website, including direct links to the QualityNet submission portal, links to current quick references, a full program manual, and routinely updated Q&A sheets. The QualityNet CMS page also includes links to archived resources. For FFY 2022, the “IPFQR Program Manual”<sup>34</sup> provides high-level information on the IPFQR Program, and detailed instructions, including instructions related to the NOP. The IPFQR Program Manual specifically states the following regarding NOPs and withdrawals from the program:

#### **Section 5: Notice of Participation**

To participate in the IPFQR Program, each facility must complete a Notice of Participation (NOP). Once completed, the NOP remains in effect until an IPF decides to withdraw from the program or there is a change in their eligibility status.

*Facilities that completed an NOP and plan to continue to participate in the IPFQR Program do not need to complete an NOP for subsequent years.* The system will automatically update their NOP and populate the screen with the next fiscal year and annually thereafter. To verify the NOP was updated, it is recommended that the facility log in to the NOP application. It is also recommended that facilities log in to the NOP application to update their facility contacts, since this information was not available if a facility completed the paper NOP form.

Eligible facilities that did not participate in the IPFQR Program previously may complete an online NOP at any time; however, new facilities must complete the NOP no more than 180 days from the Medicare Accept Date. All IPFs that are eligible to receive full APU for a given fiscal year must have an IPFQR Program NOP status of “Participating” by the annual August deadline (typically August 15). For example, IPFs must ensure that the NOP status is “Participating” by August 15, 2020, to meet the NOP requirement for the FY 2021 payment determination.

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<sup>34</sup> IPFQR Program Manual, Version 5.1 (hereinafter, “IPFQR Program Manual, Version 5.1”). (Jan. 1, 2020), available at: [https://qualitynet.cms.gov/files/5eb188953e1f47001f3d8ecc?filename=IPF\\_PrgmrMnl\\_V5.1\\_010220\\_2.pdf](https://qualitynet.cms.gov/files/5eb188953e1f47001f3d8ecc?filename=IPF_PrgmrMnl_V5.1_010220_2.pdf) (last accessed Jul. 31, 2025)

*NOTE: Once an IPF has submitted an NOP status of “Participating,” the IPF is considered an active IPFQR Program participant and is subject to the IPFQR Program requirements to obtain full APU until the IPF submits a withdrawal of participation or until there is a change in the eligibility status of the IPF.*<sup>35</sup>

For newly eligible IPFs, the “Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program Welcome Guide for Newly Eligible IPFs Version 1.3,” (or “Welcome Guide”) is a resource with an overview and description of the program’s requirements. The Welcome Guide reads in pertinent part:

Requirement Two: Complete the IPFQR Program NOP to indicate participation status

**Refer to Section 5 of the IPFQR Program Manual: Notice of Participation**

Newly eligible facilities have 180 days from the Medicare Accept Date to submit an NOP for the IPFQR program through the *QualityNet Secure Portal*. Before an NOP can be submitted, IPFs must designate contacts and include the name and address of each hospital campus sharing the same CCN. An IPF NOP status of “Participating” must be on file in the *QualityNet Secure Portal* by the annual August 15 deadline (unless directed otherwise via the IPFQR Program Listserve) to meet the NOP requirement for the current data submission period. Once a participation status is selected, the status automatically carries over year after year.

Facilities are responsible for updating their staff contacts. Facilities are encouraged to maintain up-to-date contact records in the *QualityNet Secure Portal* and to submit and maintain updated contact information by completing and submitting the Hospital Contact Change Form.<sup>36</sup>

**Burden of Proof and Standard of Review**

A Board decision must include findings of fact and conclusions of law that “the provider carried its burden of production of evidence and burden of proof by establishing, by a preponderance of the evidence, that the provider is entitled to relief on the merits of the matter at issue.”<sup>37</sup> Additionally, “[a] decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the [Medicare contractor] and such other

<sup>35</sup> *Id.* at 61 (emphasis added).

<sup>36</sup> Centers for Medicare & Medicaid Services (CMS) Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program Welcome Guide for Newly Eligible IPFs Version 1.03 at 2-3 (October, 2019).

<sup>37</sup> 42 C.F.R. § 405.1871(a)(3).

evidence as may be obtained or received by the Board, and shall be supported by substantial evidence when the record is viewed as a whole.”<sup>38</sup> In *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938), the U.S. Supreme Court held, “[s]ubstantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”<sup>39</sup> Accordingly, in an appeal before the Board, a provider must prove by a preponderance of substantial, relevant evidence that it is entitled to the relief sought.

### **DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW:**

As outlined in the Statement of Relevant Law, *supra*, participants in the IPFQR program must submit data to satisfy certain quality reporting requirements. Failure to submit the data, or specific documents, in the correct form and manner, and at the correct time, will result in a two percentage-point reduction to the provider’s APU.<sup>40</sup> Providers wishing to participate in the IPFQR Program are required to submit an NOP. Per the IPFQR Program Manual, “[f]acilities that completed a NOP and *plan to continue to participate* in the IPFQR Program *do not need to complete an NOP for subsequent years*.”<sup>41</sup> Once participating, “the IPF is considered an active IPFQR Program participant . . . until the IPF submits a withdrawal of participation or until there is a change in the eligibility status of the IPF.”<sup>42</sup> A provider may withdraw its participation in the IPFQR Program by changing the status of its NOP in the CMS-designated system, known as QualityNet.<sup>43</sup> ***If the provider withdraws from the program, changing its NOP status to “Withdrawn”, a reduced annual payment update applies, and the provider must submit a new, completed NOP to subsequently resume eligibility for the full APU amount.***

CMS imposed a two percentage-point reduction to JSUMC’s FY 2022 APU for failure to have an IPFQR Program Notice of Participation status of “Participating” for FY 2022.<sup>44</sup>

JSUMC argues that it was not notified of the withdrawal of its participating status until September 8, 2021, when it learned from CMS of its two percentage-point APU reduction due to “withdrawn Notice of Participation.”<sup>45</sup> The Medicare Contractor in turn argues that JSUMC “does not deny the withdrawal of the NOP.”<sup>46</sup> Regardless, JSUMC is unclear how that withdrawal occurred and the Medicare Contractor offers no solid explanation for how it happened. JSUMC contends that, upon researching when and how the facility’s NOP and

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<sup>38</sup> 42 U.S.C. § 1395oo(d). This statutory provision also confirms: “[t]he Board shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report (including revisions adverse to the provider of services) even though such matters were not considered by the intermediary in making such final determination.” See also 42 C.F.R. § 405.1869(a).

<sup>39</sup> See also *Pomona Valley Hosp. Med. Ctr. v. Becerra*, 82 F.4th 1252, 1258-59 (D.C. Cir. 2023).

<sup>40</sup> See 77 Fed. Reg. at 53258, 53654 - 55 (Aug. 31, 2012).

<sup>41</sup> IPFQR Program Manual, Version 5.1, at 67.

<sup>42</sup> *Id.*

<sup>43</sup> See 77 Fed. Reg. at 53258, 53654 - 55 (Aug. 31, 2012).

<sup>44</sup> Ex. C-1.

<sup>45</sup> Provider’s RFPP at 1 (Mar. 19, 2024); see also Ex. C-1 and Tr. at 8:4 – 8. 09/08/2021. The Board notes that JSUMC promptly updated its participation status on September 14, 2021, within a week of receiving the reduction notice. See “Notice of Participation Summary Table” recreated *infra*, page 15.

<sup>46</sup> Medicare Contractor’s PPP”) at 8 (June 2, 2023).

participation status was changed, they discovered that a request for withdrawal from the program was submitted by an unknown individual on October 30, 2019.<sup>47</sup>

Both JSUMC and the Medicare Contractor submitted versions of an undated “Notice of Participation Summary Table” showing vague editing actions, including the withdraw of an NOP on June 28, 2018 by “NOP\_APP” and again on Oct. 30, 2019 by “MMHARNHOLTZ\_DBA.” For reference, we have recreated the complete table below, using both parties’ submitted versions.<sup>48</sup> The Board notes that in addition to not being dated in both JSUMC’s and the Medicare Contractor’s exhibits, the table is also unlabeled in that is unclear, given the correspondence, whether the table relates to CCN 310073 or CCN 31S073.

#### Notice of Participation Summary Table

<b>Fiscal Year</b>	<b>NOP Status</b>	<b>NOP Date</b>	<b>Added By</b>	<b>Date Edited</b>	<b>Edited By</b>
2024	PARTICIPATING	09/14/2021	CARRY_FORWARD	10/04/2021	CARRY_FORWARD
2023	PARTICIPATING	09/14/2021	kellyn.reidemann	09/14/2021	kellyn.reidemann
2022	WITHDRAWN	06/28/2018	CARRY_FORWARD	08/23/2020	CARRY_FORWARD
2021	WITHDRAWN	06/28/2018	MMARNHOLTZ_DBA	10/30/2019	MMARNHOLTZ_DBA
2020	WITHDRAWN	06/28/2018	CARRY_FORWARD	08/23/2018	CARRY_FORWARD
2019	WITHDRAWN	06/28/2018	CARRY_FORWARD	06/28/2018	NOP_APP
2018	PARTICIPATING	07/18/2013	CARRY_FORWARD	08/23/2016	CARRY_FORWARD

<sup>47</sup> See, Tr. at 39:21 – 25 through 40:1 (Witness: “In fiscal year 2019, it looks like we were withdrawn. We don’t have any – we don’t know who withdrew us, but it looks like it was done on June 28, 2018, and it says it was edited by NOP app.”). See also, Tr. at 42 and Provider’s RFPP at 1.

<sup>48</sup> Ex. C-3, Provider’s RFPP at 13. (The Board notes that the Medicare Contractor’s Ex. C-3 only contains the data from fiscal years 2018 to 2022, while the Provider’s documentation submitted with the RFPP at 13 only contains the data from fiscal years 2021 to 2024.)

According to the Medicare Contractor, the need to submit an NOP was communicated to JSUMC on more than one occasion and JSUMC did not submit a new NOP, even though it was “well within [JSUMC’s] control to make the necessary correction or submission to meet the program requirements.”<sup>49</sup> However, the Medicare Contractor provides no evidence of such communications. The Medicare Contractor postulates that JSUMC’s CCN was deactivated for a period of time and reactivated in February 2020, at which time the Medicare Contractor contends that an email was sent to JSUMC on February 19, 2020 which included an “Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program Welcome Guide for Newly Eligible IPFs” (the “Welcome Guide”) sent by the Outreach and Education Support Contractor (“Support Contractor”) to JSUMC.<sup>50</sup> According to the Medicare Contractor, the Welcome Guide included information on how to update the IPFQR Program NOP.<sup>51</sup> The Board notes first, that neither party has produced the February 19, 2020 communication, and second, that the Welcome Guide submitted by the Medicare Contractor is dated October 2019, *six months after it was purportedly provided to JSUMC*.<sup>52</sup> Nonetheless, JSUMC did not object to the Welcome Guide exhibit.<sup>53</sup>

JSUMC states that in the spring of 2019 it experienced “significant issues with the QNET platform and the change to [Health Care Quality Information Systems (HCQIS) Access Roles and Profile (HARP)].”<sup>54</sup> Witness testimony reflects confusion as to what happened and an understanding that the participation status carries over.<sup>55</sup> In addition, JSUMC raises the issue of confusion and lost information in the spring of 2019 when QNET’s platform changed:<sup>56</sup>

In the Spring of 2019, QNET’s platform changed. There was much confusion and a lot of information lost to both CMS and the organization. Our leader [Regional President of JSUMC] was never notified of JSUMC’s ability to participate in IPFQR. During our investigation we were told by CMS that an email was sent to [employee name redacted], who was retired and no longer had an email. [Employee name redacted] could not locate an email from CMS. Our team remembers having significant issues with the QNet platform and the change to HARP. They spent hours working with the Help Desk to gain access. This was at the height of the initial wave of the COVID-19 pandemic, during which time many CMS staff members were working remotely. As a result, it was incredibly challenging for hospitals to connect with CMS

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<sup>49</sup> Medicare Contractor’s PPP at 5.

<sup>50</sup> Medicare Contractor’s PPP at 6; *see also* Ex. C-4 (Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program Welcome Guide for Newly Eligible IPFs Version 1.3).

<sup>51</sup> Medicare Contractor PPP at 6; *see also* Ex. C-4.

<sup>52</sup> Ex. C-4 at C-0012.

<sup>53</sup> Medicare contractors (here, Novitas Solutions, Inc.) – who are, by contract, representing CMS – have an obligation to develop the record, despite the fact that the ultimate burden of proof rests on providers in appeals before the Board. Similarly, providers have the opportunity to present documentation to refute the contractors’ Exhibits or to object if they feel an Exhibit is irrelevant. The Board reminds the parties that *this is not a new requirement* and that the Board continues to require the development of the record in these types of cases.

<sup>54</sup> Provider’s Ex. A.

<sup>55</sup> Tr. at 27 - 28

<sup>56</sup> Provider’s RFPP at 2.

staff. JSUMC also submitted all data on time believing we were in participation status - this alone signifies our intent of participation.<sup>57</sup>

JSUMC argues that the inability to effectively communicate with CMS ultimately prevented it from resolving the issue in a timely manner. JSUMC offered a detailed timeline in support of this argument:

In September of 2021, [Regional President of JSUMC] was notified of the withdrawal status of the [IPFQR]. Unfortunately, this was our first letter informing us of the withdrawal status, but it was too late by CMS's standards to receive full payment from CMS.

Four months later on January 10, 2022, we received a letter informing us we would receive a 2% reduction for the IPFQR program and how to challenge the decision.

JSUMC sent a letter to [CMS's CCSQ Lead] on February 8th requesting a reconsideration of the reduction. (See Exhibit A).<sup>58</sup>

At the hearing, JSUMC called two witnesses to testify in support of its position that participation status carries over and that JSUMC was unaware of a withdrawal of participation. JSUMC's first witness was an analyst for JSUMC's Department of Patient Safety and Quality during the period in question, and her responsibility was "data abstraction and creation of reports for quality measures" and "submitting those measures to various places."<sup>59</sup> The analyst testified that JSUMC reported the quality data in question for calendar years 2020 through 2023.<sup>60</sup> The analyst testified that the facility's NOP was withdrawn at some point prior to 2020, but she had no knowledge of how or why that happened.<sup>61</sup> The analyst also testified that, during the reporting period in question, she was newly appointed to the responsibility of managing the IPFQR reporting duties and received "minimal training" related to the QualityNet portal, and the IPFQR Program.<sup>62</sup>

The Director of Quality Initiatives and Improvement was JSUMC's second witness.<sup>63</sup> During her testimony, the director was questioned specifically about when the facility's NOP was withdrawn and the relevant details known to her at that time. Regarding the NOP's change of status for FY 2021, the director testified that prior to CY 2021, she was employed at a different

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<sup>57</sup> *Id.* at 2.

<sup>58</sup> Provider's RFPP at 1. Provider's Ex. A is the February 8, 2022 letter ("Fiscal Year 2022 Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program Annual Payment Update for Jersey Shore University Medical Center (JSUMC), CMS Certification Number: 31S073") addressed to CMS's CCSQ Lead.

<sup>59</sup> Tr. at 22-23.

<sup>60</sup> *Id.* at 23.

<sup>61</sup> *Id.* at 44.

<sup>62</sup> *Id.* at 48.

<sup>63</sup> *Id.* at 53.



facility and that she was only aware a penalty was imposed in the FY 2021.<sup>64</sup> In attempting to show that JSUMC reactivated, or had a new CCN, the Medicare Contractor's representative questioned the Director of Quality Initiatives and Improvement as to whether she was aware of a regulation that stated a newly participating psychiatric facility had a period "where reporting is optional, then mandatory, but no penalty goes into effect until after that freestanding facility or subunit has been in place for a specific period of time."<sup>65</sup> The Director of Quality Initiatives and Improvement responded "[a]ll I can tell you what I experienced during my time as the Vice President of Quality in another facility and what we have received through our emails."<sup>66</sup>

The Medicare Contractor attempted to refute JSUMC's position by stating JSUMC failed to submit the required documentation and emphasized that JSUMC received more than one communication regarding the need to update the NOP, and that certain actions were still needed on JSUMC's part to meet program requirements.<sup>67</sup> Further, the Medicare Contractor suggests that JSUMC "deactivated their CMS Certification Number ("CCN")" at some point and then "reactivated it in February 2020," relying again the Welcome Guide allegedly sent to the facility on February 19, 2020.<sup>68</sup> The Medicare Contractor, as support for its assertions, outlined when and how JSUMC received notice from the Outreach and Education Support Contractor ("Support Contractor") and averred that JSUMC was required to take various steps to comply with the IPFQR program's reporting requirements for fiscal year 2022.<sup>69</sup> According to the Medicare Contractor, those communications and notifications included:

1. On February 19, 2020, the Support Contractor sent a welcome guide<sup>70</sup> to this facility (See Exhibit C-4), which included instructions on how to update a Health Care Quality Information Systems Access Roles and Profile account to include access to the IPFQR Program areas of the Hospital Quality Reporting (HQR) system, how to update the IPFQR Program Notice of Participation (NOP), and other important information.
2. On June 24, 2021, the Support Contractor provided a webinar prior to the start of the data submission period: *Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program: Keys to Successful FY 2022 Reporting*. Webinar materials are available for download from QualityNet IPFQR Program 2021 Webinars & Calls and Quality Reporting Center Archived Events webpages.

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<sup>64</sup> Tr. at 53-54 and 57.

<sup>65</sup> *Id.* at 91: 10 – 18.

<sup>66</sup> *Id.* at 91:20 – 23.

<sup>67</sup> Medicare Contractor's PPP at 5.

<sup>68</sup> *Id.* at 6.

<sup>69</sup> *Id.* at 6 – 7.

<sup>70</sup> Medicare Contractor's Ex. C-4 at 4-5. *See also, infra*, Additional Guidance. The Welcome Guide also specifically states the responsibility of providers to ensure that points of contact for staff with reporting responsibilities remain updated in the QualityNet portal.

3. The Support Contractor transmitted email notifications to the IPFQR Program Listserve pertinent to the summer 2021 data submission period and the FY 2022 Annual Payment Update determination as shown below. These are available for download from the QualityNet 2021 Email Notifications and Quality Reporting Center 2021 Email Notifications webpages.

- June 10, 2021: IPFQR Program Outreach and Education June 24, 2021, Webinar: IPFQR Program: Keys to Successful FY 2022 Reporting (Registration notification)
- June 23, 2021: IPFQR Program Outreach and Education June 24, 2021, Webinar: IPFQR Program: Keys to Successful FY 2022 Reporting (Slides available notification)
- June 23, 2021: Announcement: FY 2022 IPFQR Program Data Submission and Verification Checklists Available
- July 7, 2021: Hospital Quality Reporting System Open for IPFQR Program Data Submission
- July 19, 2021: Reminder: IPFQR Program Data Submission Period
- July 30, 2021: Reminder: IPFQR Program Data Submission Period<sup>71</sup>

However, after providing this list as evidence that JSUMC was on notice regarding requirements of the IPFQR Program, the Medicare Contractor states, “The Support Contractor has no record of [JSUMC] contacting them directly to acknowledge receipt of the welcome guide, inquire about the FY 2022 IPFQR Program NOP requirement, request guidance on how to update the NOP prior to the submission deadline or seek an update on its NOP status.”<sup>72</sup>

The Board finds the Medicare Contractor’s recitation of the Support Contractor’s communications inconclusive as to whether JSUMC was on notice of its nonparticipating status or regarding requirements of the IPFQR Program; the Support Contractor was not a witness at the hearing and did not provide any evidence to the Board.

At the end of the hearing, the Board requested the full package for the approval of “the new [CCN 31S073].”<sup>73</sup> In response, the parties provided a Provider Tie-In Notice (a CMS form

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<sup>71</sup> Medicare Contractor’s PPP at 6 – 7.

<sup>72</sup> *Id.* at 7.

<sup>73</sup> Tr. at 100.

generally issued on the occurrence of initial enrollment, change of ownership, or termination)<sup>74</sup> dated November 16, 2018, stating at line-item V:

V. Remarks (If this notice corrects a previous notice, indicate date of the notice and item(s) reported incorrectly):

Initial Certification of CCN 31-S073 PPS-Excluded Psychiatric Unit of 30 beds within Jersey Shore University Medical Center (CCN 31-0073), effective January 1, 2019, NPI: 1053894022, Reference # 682675011<sup>75</sup>

In addition, a letter (sent via email with receipt acknowledgement requested) from CMS dated November 16, 2018 identifying CCN 31-0073 and addressed to the president of JSUMC, stated:

The New Jersey Department of Health has informed this office [CMS Northeast Division of Survey & Certification)] that, **effective January 1, 2019**, your facility will have established a PPS-Excluded Psychiatric Unit. This unit has been assigned its own CCN (**31-S073**), which is a modification of the hospital's CCN. An alpha character in the third position of the CCN identifies this psychiatric unit, which is excluded from PPS payment.<sup>76</sup>

These two documents appear to support the Medicare Contractor's position that CCN 31-S073 was assigned/reinstated in 2019. Additionally, a letter from Novitas/CMS to HMH Hospitals Corporation shows CCN 31S073 being activated on December 11, 2018, in correspondence confirming that a change of information was approved and that the information changed included an "Added Officer and Authorized Official."<sup>77</sup> This is supported by the Medicare Enrollment Application (Form 855A) included as Exhibit C-8, which indicates the provider was changing its Medicare information for the provider number 31-S073. This application was filed by

<sup>74</sup> See, e.g., Medicare Claims Processing Manual, Chapter 1 – General Billing Requirements, Section 30 – Provider Participation, available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c01.pdf>, accessed August 1, 2025:

The RO [regional office] uses the provider tie-in notice, Form CMS-2007 (see the CMS forms page at <http://www.cms.hhs.gov/forms/>), as an official notification to the FI of a change in its list of providers. The RO completes and transmits a Form CMS-2007 to the home office of the FI in each of the following circumstances:

- A provider is certified for participation in the program,
- A provider is issued a notice of termination,
- A change of FI is authorized (including changes between Blue Cross plans or between FI processing facilities, i.e., any changes involving a change in the FI number), or
- To correct information previously furnished the FI.

<sup>75</sup> Ex. C-13 at C-0086.

<sup>76</sup> Ex. C-14 (Emphasis in original).

<sup>77</sup> See Ex. C-9 at C-0056.

Hackensack Meridian Health Corporation (a letter dated 12-6-2016 is included) and identifies JSUMC (provider number 31-S073) and is certified by the EVP – Financial Services.<sup>78</sup> Further, a letter from CMS dated November 16, 2018 shows JSUMC establishing a PPS-Excluded Psychiatric Unit with its own CCN 31-S073.<sup>79</sup>

The Medicare Contractor pointed to JSUMC’s request for a reconsideration and the subsequent CMS determination to uphold the decision, dated January 7, 2022, to further show that JSUMC, again, failed to prove that it properly submitted the required document by the reporting deadline, or prove that the NOP’s withdrawal occurred by some error outside of the provider’s control.<sup>80</sup>

During the hearing, to discern how the facility’s NOP status was possibly changed at some point, the Medicare Contractor’s representative asked questions of the witnesses that might offer an explanation. Specifically, the Medicare Contractor’s representative asked whether the provider submitted quality reporting data for *each* CCN associated with the hospital, both the CCN assigned to the acute care hospital, and the CCN assigned for the IPF subunit.<sup>81</sup> The CCN numbers are potentially an important detail related to the NOP and the reporting requirements for the relevant period because if JSUMC received the CMS IPFQR Welcome Packet, it would have received notice of JSUMC’s new CCN for the IPF unit.<sup>82</sup> Neither of JSUMC’s witnesses was aware of a second CCN number in place for the IPF, and could not testify that a unique CCN, specific to the IPF, was used for the reporting associated with the IPF subunit for the FY 2022 reporting period. The lack of awareness with regard to a second CCN unique to the IPF highlights JSUMC’s failure to adhere to program reporting requirements.

The Board notes that while the Medicare Contractor emphasizes JSUMC’s failure to monitor its process and to stay current with changes, CMS’s “Notice of Quality Reporting Program Noncompliance Decision Upheld” states – in January 2022 – that “[t]he requirement that facilities participating in the IPFQR Program report quality data to CMS is set forth in the code of Federal Regulations (CFR) at 42 CFR §§ 412.400 – 412.434.”<sup>83</sup> Indeed one section of these regulations, 42 C.F.R. § 412.433 (Procedural Requirements under the IPFQR Program), was not created until 2023, and thus could not be applicable to JSUMC during the time periods at issue in this case.<sup>84</sup> The uphold letter states, “The FY 2022 IPFQR Program Final Rule can be found in the Federal Register (FR) at 85 FR 47042;” however, that citation leads to “Medicare Program; FY 2021 Inpatient Psychiatric Facilities Prospective Payment System (IPF PPS) and Special Requirements for Psychiatric Hospitals for Fiscal Year Beginning October 1, 2020 (FY 2021),” and thus is the FY 2021 Final Rule. This citation is confusing given that the uphold is related to

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<sup>78</sup> See Ex. C-8 at C-0038, C0040, C-0043, C-0051, and C-0052. JSUMC is part of Hackensack Meridian Health Network; see Tr. at 26.

<sup>79</sup> See Ex. C-14. The late-added exhibits also show a letter from Novitas/CMS to Meridian Hospital showing CCN 31S073 being terminated as of January 1, 2015. See Ex. C-10 at C-0061. This does not align with JSUMC having a status of Participating in FY 2018, but that is not the subject of this appeal.

<sup>80</sup> Tr. at 17.

<sup>81</sup> Tr. at 32-38 and 66-67.

<sup>82</sup> Ex. C-4.

<sup>83</sup> Ex. C-2.

<sup>84</sup> See 88 FR 51161 (Aug. 2, 2023). See also, *infra*, Noncompliance Decision Upheld.

FY 2022.<sup>85</sup> The Board finds that CMS's incorrect citations and poor communication may have further contributed to JSUMC's confusion.

### **Conclusion**

Notwithstanding the shortfalls of CMS's communications and of the Medicare Contractor's defense, the burden of proof lies with JSUMC. The Board finds that JSUMC's failure to monitor and understand its own participation status, to maintain an active QualityNet Security Administrator to keep abreast of changes, and to maintain updated contact information for important notices and program updates, resulted in its ignorance of the need to submit a Notice of Participation before the deadline.<sup>86</sup> JSUMC did not prove to the Board by a preponderance of substantial, relevant evidence that it is entitled to the relief sought. Because the APU reduction ultimately resulted from JSUMC's failures, the Board also finds that JSUMC did not meet the requirements for a waiver from the quality reporting requirements.<sup>87</sup>

### **DECISION:**

After considering Medicare law and regulations, the arguments presented, and the evidence admitted, the Board finds that CMS's decision to reduce JSUMC's FY 2022 APU by two percentage points was correct.

### **BOARD MEMBERS PARTICIPATING:**

Kevin D. Smith, CPA  
 Ratina Kelly, CPA  
 Nicole E. Musgrave, Esq.  
 Shakeba DuBose, Esq.

### **FOR THE BOARD:**

8/12/2025

**X** Kevin D. Smith, CPA

Kevin D. Smith, CPA

Board Chair

Signed by: Kevin D. Smith -A

<sup>85</sup> See *infra*, Noncompliance Decision Upheld. See also 85 Fed. Reg. 47042 (Aug. 4, 2020).

<sup>86</sup> IPFQR Program Manual, Version 5.1 at 12. While Ex. C-4 is not relevant to the time period in question, the Board takes administrative notice of IPFQR Program Manual, Version 5.1, which is a publicly available document that includes much of the same information.

<sup>87</sup> See *discussion supra*, page 8-9, regarding the requirements for waivers from the quality reporting requirements for the FY 2014 payment determination and subsequent years, and the codification of those requirements in 2023.