

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

#### **Small Entity Compliance Guide**

#### **CMS-1752-F & CMS-1762-F**

#### **RINs 0938-AU44 and 0938-AU56**

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2022 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Changes to Medicaid Provider Enrollment; and Changes to the Medicare Shared Savings Program

***Federal Register Vol. 86, No. 154, Page 44774, August 13, 2021***

#### **CMS-1752-FC3**

#### **RIN 0938-AU44**

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; Changes to Medicare Graduate Medical Education Payments for Teaching Hospitals; Changes to Organ Acquisition Payment Policies

***Federal Register Vol. 86, No. 245, Page 73416, December 27, 2021***

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104-121, as amended by Pub. L. 110-28, May 25, 2007) contains requirements for issuance of “small entity compliance guides.” Guides are to explain what actions affected entities must take to comply with agency rules. Such guides must be prepared when agencies issue final rules for which agencies were required to prepare a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

The complete text of the final rule and final rule with comment period can be found on the CMS Web site at: <https://www.cms.gov/medicare/acute-inpatient-pps/fy-2022-ipp-pps-final-rule-home-page>.

The final rule that appeared in the August 13, 2021 Federal Register revises the Medicare hospital inpatient prospective payment systems (IPPS) for operating and capital-related costs of acute care hospitals to implement changes arising from our continuing experience with these systems for FY 2022 and to implement certain recent legislation. The final rule also updates the payment policies and the annual payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by

long-term care hospitals (LTCHs) for FY 2022. It also finalizes a May 10, 2021 interim final rule with comment period regarding rural reclassification through the Medicare Geographic Classification Review Board (MGCRB). The final rule also implements changes and updates for the Medicare Promoting Interoperability, Hospital Value-Based Purchasing, Hospital Readmissions Reduction, Hospital Inpatient Quality Reporting, Hospital-Acquired Condition Reduction, the PPS-Exempt Cancer Hospital Reporting, and the Long-Term Care Hospital Quality Reporting programs. We also are finalizing certain longstanding Medicare organ acquisition payment policy provisions relative to organ procurement organizations (OPOs) and transplant hospitals and we are establishing new requirements that donor community hospitals and transplant hospitals must bill OPOs the lesser of their customary charges reduced to cost, or negotiated rates.

The final rule with comment period that appeared in the December 27, 2021 Federal Register finalizes certain provisions of the FY 2022 IPPS/LTCH PPS proposed rule. These provisions implement policies based on legislative changes relative to Medicare graduate medical education (GME) for teaching hospitals provided by sections 126, 127 and 131 of the Consolidated Appropriations Act (CAA), 2021; and changes, clarifications, and codifications for Medicare organ acquisition payment policies relative to OPOs, transplant hospitals, and donor community hospitals. All OPOs are nonprofit organizations. In addition, this final rule with comment period solicits comments on certain issues to inform potential future rulemaking related to the implementation of sections 126 and 131 of the CAA 2021.

The great majority of the hospitals that participate in Medicare are small entities, either by being nonprofit organizations or by meeting the Small Business Administration's definition of a small business. Accordingly, our analysis under the Regulatory Flexibility Act assumes that all hospitals are small entities. The following table details the size standards for those industries that may be affected by final rule and final rule with comment period, though we expect that general medical and surgical hospitals would be most affected.

#### **SIZE STANDARDS BY AFFECTED INDUSTRY**

<b>NAICS Code</b>	<b>NAICS Industry Description</b>	<b>Size Standard</b>
622110	General Medical and Surgical Hospitals	\$ 41.5
622210	Psychiatric and Substance Abuse Hospitals	\$ 41.5
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$ 41.5

The effects of the final rule and the final rule with comment vary considerably by type of hospital, location, bed size, and other variables. The effects of finalizing certain organ acquisition policy provisions are not expected to have an impact on expenditures; however, to the extent that any of these provisions may have an impact on expenditures, that impact is not estimable without the availability of the appropriate cost information from hospitals and OPOs to calculate such impact. We estimate that operating payments for IPPS hospitals will increase by about 2.6 percent on average in FY 2022.

The final rule and the final rule with comment impose no direct Federal compliance requirements on hospitals. In order to assist hospitals in understanding and adapting to changes in Medicare regulations and in billing and payment procedures, we have developed a Hospital Center Web page for hospitals that includes substantial downloadable explanatory materials at <https://www.cms.gov/center/provider-type/hospital-center.html>. In addition, there is a Web page devoted specifically to the inpatient prospective payment system that includes substantial information at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/index.html>.