CMS Manual System	**Department of Health & Human Services (DHHS)**
Pub 100-06 Medicare Financial Management	**Centers for Medicare & Medicaid Services (CMS)**
Transmittal 279	**Date: December 16, 2016**
	Change Request 9896

SUBJECT: Instructions to Hospitals on the Election of a Medicare-Supplemental Security Income (SSI) Component of the Disproportionate Share (DSH) Payment Adjustment for Cost Reports that Involve SSI Ratios for Fiscal Year (FY) 2004 and Earlier, or SSI Ratios for Hospital Cost-Reporting Periods for Patient Discharges Occurring Before October 1, 2004

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to direct the contractors to inform hospitals of the requirements for making an election for a particular fiscal period covered by the Centers for Medicare & Medicaid Services' (CMS) Ruling 1498-R (as modified by CMS Ruling 1498-R2).

EFFECTIVE DATE: January 19, 2017
**Unless otherwise specified, the effective date is the date of service.*
IMPLEMENTATION DATE: January 19, 2017

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	N/A

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

IV. ATTACHMENTS:

Business Requirements

Attachment – Business Requirements

Pub. 100-06	Transmittal: 279	Date: December 16, 2016	Change Request: 9896

SUBJECT: Instructions to Hospitals on the Election of a Medicare-Supplemental Security Income (SSI) Component of the Disproportionate Share (DSH) Payment Adjustment for Cost Reports that Involve SSI Ratios for Fiscal Year (FY) 2004 and Earlier, or SSI Ratios for Hospital Cost-Reporting Periods for Patient Discharges Occurring Before October 1, 2004

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I. GENERAL INFORMATION

A. Background: On April 28, 2010, the Administrator of the Centers for Medicare & Medicaid Services (CMS) issued CMS Ruling 1498-R. The Ruling addressed administrative appeals on three different issues related to Medicare Disproportionate Share Hospital (DSH) payment: (1) the Medicare-Supplemental Security Income (SSI) fraction data matching process issue, and the method for recalculating the hospital's Medicare-SSI fraction by matching Medicare and SSI entitlement data; (2) the exclusion from the Medicare fraction and the numerator of the Medicaid fraction of non-covered inpatient hospital days for patients entitled to Medicare Part A, including days for which the patient's Part A inpatient hospital benefits were exhausted; and (3) the exclusion from the DSH calculation of labor/delivery room (LDR) inpatient days. On April 22, 2015, the Administrator of CMS issued CMS Ruling 1498-R2, which effectively amended CMS Ruling 1498-R. This modification and amendment of CMS Ruling 1498-R affects a change only with respect to the relief that is available for revised Medicare-SSI fractions, and the interaction between Medicare-SSI fractions suitably revised to address the data matching process issue and the issue of Medicare Part A non-covered or exhausted benefit days ("dual-eligible non-covered days") for cost reporting periods involving patient discharges before October 1, 2004.

B. Policy: Section 9105 of the Consolidated Omnibus Budget Reconciliation Act of 1985 provides that for discharges occurring on or after May 1, 1986, an additional payment must be made to Inpatient Prospective Payment System (IPPS) hospitals serving a disproportionate share of low income patients. The additional payment is determined by multiplying the federal portion of the Diagnosis-Related Group (DRG) payment by the DSH adjustment factor. (See 42 CFR 412.106).

Prior to the implementation of the FY 2005 IPPS final rule, inpatient days were included in the numerator of the Medicare-SSI fraction only if the inpatient hospital days were "covered" under Medicare Part A and the patient was entitled to SSI benefits. Part A coverage of inpatient days alone was required for inclusion in the denominator of the Medicare-SSI fraction. The FY 2005 IPPS final rule amended the DSH regulations by eliminating the requirement that Part A inpatient hospital days must be covered in order for such days to be included in the Medicare-SSI fraction and made clear that patient days were to be included in that fraction if the patient was entitled to Medicare Part A. See the FY 2005 IPPS final rule (69 FR 49246) (revising 42 CFR 412.106(b)(2)(i)). Under our revised policy, the inpatient days of a person who was entitled to Medicare Part A are included in the numerator of the hospital's Medicare-SSI fraction (provided that the patient was also entitled to SSI at that time) and in the Medicare-SSI fraction denominator, regardless of whether the individual's inpatient hospital stay was covered under Part A or whether the patient's Part A hospital benefits were exhausted. The FY 2005 IPPS final rule revision to the DSH regulations was effective for patient discharges occurring on or after October 1, 2004 (69 FR 49099).

The CMS issued Ruling 1498-R2 on April 22, 2015, and it can be found at:
http://www.cms.gov/Regulations-and-Guidance/Guidance/Rulings/CMS-Rulings-Items/CMS1498-R2.html.

The CMS Ruling 1498-R2 provided notice of CMS' determination that CMS Ruling 1498-R shall be amended regarding its remedy for recalculation of certain Medicare DSH payment adjustments. CMS Ruling 1498-R required the Provider Reimbursement Review Board (PRRB) and other Medicare administrative appeals tribunals to remand each qualifying appeal to the appropriate Medicare contractor. CMS Ruling 1498-R further explained how CMS and Medicare contractors were to recalculate the provider's DSH adjustment resolving any of the three different DSH issues. CMS and the Medicare contractor also were to apply the provisions of CMS Ruling 1498-R, on all three DSH issues, to each qualifying hospital cost reporting period where the contractor had not yet final settled the provider's Medicare cost report. CMS Ruling 1498-R2 is a modification and amendment of CMS Ruling 1498-R, but only insofar as CMS Ruling 1498-R2 requires an election with respect to the Medicare-SSI component of the DSH payment adjustment for cost reports that involve SSI ratios for federal fiscal year 2004 and earlier, or SSI ratios for hospital cost-reporting periods, but only for those patient discharges occurring before October 1, 2004.

The CMS and the Medicare contractors will resolve each Medicare-SSI and dual-eligible non-covered day appeal remanded by the PRRB to the contractor, or open hospital cost reporting period subject to CMS Ruling 1498-R and the amendment in CMS Ruling 1498-R2 by allowing hospitals to exercise an election. This election is available for hospital cost reporting periods where the Medicare contractor has not yet final settled the provider's Medicare cost report, as well as appeals remanded to the contractor pursuant to CMS Ruling 1498-R (assuming any such hospital cost reporting period involves SSI ratios for federal fiscal year 2004 and earlier or SSI ratios for hospital cost-reporting periods, but only for those patient discharges occurring before October 1, 2004). The election is also available for hospital cost reporting periods *previously* reopened specifically on the Medicare-SSI fraction issue – neither CMS Ruling 1498-R nor the amendment in CMS Ruling 1498-R2 required reopening. For a particular hospital cost reporting period or, as applicable, the portion of a particular cost reporting period prior to October 1, 2004, subject to CMS Ruling 1498-R and the amendment in CMS Ruling 1498-R2, hospitals may elect either to:

1. include inpatient days of a person entitled to Medicare Part A in the numerator of the hospital's Medicare-SSI fraction (provided that the patient was also entitled to SSI) and in that fraction's denominator, even if the inpatient stay was not covered under Part A or the patient's Part A hospital benefits were exhausted (that is, elect to have applied a suitably revised Medicare-SSI fraction calculated on the basis of "total days"); or

2. exclude such days where the patient's Part A hospital benefits were exhausted or otherwise were not in a covered Part A stay from both the numerator and denominator of the Medicare-SSI fraction (that is, elect to have applied a suitably revised Medicare-SSI fraction calculated on the basis of "covered days").

In summary, a provider may elect whether to receive a suitably revised Medicare-SSI fraction on the basis of "covered days" or "total days" for hospital cost reporting periods that involve SSI ratios for federal fiscal year 2004 and earlier, or SSI ratios for hospital cost reporting periods, but only for those patient discharges occurring before October 1, 2004. CMS Ruling 1498-R2 does not effect any change with respect to the Medicaid fraction of the Medicare DSH payment calculation. The amendment to CMS Ruling 1498-R only allows providers to exercise a choice with respect to the Medicare-SSI fraction, and nothing in the amended Ruling or these instructions shall be interpreted to affect a hospital's Medicaid fraction of its DSH payment calculation.

The CMS has published on its Web site suitably revised Medicare-SSI fractions that display Medicare-SSI fractions calculated on the basis of "covered days," as well as "total days." Before an initial Notice of Program Reimbursement (NPR) or revised NPR pursuant to the amendment to CMS Ruling 1498-R is issued by its Medicare contractor, a hospital's designated representative should submit to its Medicare contractor a written request that reflects the hospital's election of whether, for a particular fiscal period, the hospital's suitably revised Medicare-SSI fraction will be calculated on the basis of "total days" or "covered days." The written request must be received by the Medicare contractor within 180 calendar days of the date instructions are posted on the contractor's Web site. The request to the Medicare contractor must include the following information:

Provider Number

Hospital Name

PRRB Case Number and PRRB Remand Date (if applicable)

Case Name, Docket Number (if applicable)

Hospital's designated representative (if applicable)

Cost Report Begin Date (YYYYMMDD)

Cost Report End Date (YYYYMMDD)

FFY Based on CY Begin Date (YYYY)

Provider Election ("Total" or "Covered")

SSI ratio selected (Numerical value from CMS website)

If the hospital's request does not contain all of the required information or if the hospital does not make an election for a particular fiscal period covered by CMS Ruling 1498-R (as modified by CMS Ruling 1498-R2) in this time frame, the Medicare contractor shall contact the hospital via letter, using a method that tracks delivery and receipt, to obtain the required information and if the provider does not respond within 30 days of the date of the letter, the Medicare contractor shall recalculate the provider's DSH adjustment using the higher of the two revised Medicare-SSI fractions.

Realignment

The 42 CFR 412.106(b)(3) allows the hospital the opportunity to request to have their Medicare-SSI fraction realigned based on its cost reporting period (as opposed to the federal fiscal year).

For cost reporting periods subject to CMS Ruling 1498-R and the amendment in CMS Ruling 1498-R2, CMS will furnish (at the hospital's written request and at no cost to the hospital) patient-level data concerning the number of the hospital's "covered" and "total" Medicare-SSI days, and the number of the hospital's "covered" and "total" Medicare days. Hospitals with cost reporting periods that ended before December 8, 2004, that did not receive an initial NPR, must appeal the issue of the calculation of their Medicare-SSI days to the PRRB subsequent to receipt of an initial NPR in order to receive their data at no cost. Such data will be provided on the federal fiscal year basis for the relevant cost reporting period, or, if the hospital does not report on the federal fiscal year basis, the two federal fiscal years in which the hospital's cost reporting period falls.

If a provider previously submitted a realignment request for an open cost report, or for a cost report with an SSI appeal or SSI remand that uses a federal fiscal year 2004 or earlier Medicare-SSI fraction, the contractor shall send a notice to the provider to inform them that the realignment request no longer applies since the provider will first receive a revised Medicare-SSI fraction. After receiving its revised Medicare-SSI fraction, the provider may request realignment, based on the revised Medicare-SSI fraction, within the normal timeframes.

The hospital must submit a written request to its contractor if it elects to receive the suitably revised Medicare-SSI fractions on the basis of its cost reporting period. The request must be on provider letterhead and signed by authorized hospital personnel. The request must specify whether the provider elects to have its realigned Medicare-SSI fraction generated on the basis of "total days" or "covered days." Hospitals

requesting that CMS recalculate their SSI ratios on the basis of their cost reporting period shall send their Medicare contractor the following information:

Provider Number

Hospital Name

PRRB Case Number and PRRB Remand Date (if applicable)

Case Name, Docket Number (if applicable)

Hospital's designated representative (if applicable)

Cost Report Begin Date (YYYYMMDD)

Cost Report End Date (YYYYMMDD)

FFY Based on CY Begin Date (YYYY)

Provider Election ("Total" or "Covered")

If the hospital's realignment request does not contain all of the required information, notably if the request does not contain an election of "total" or "covered" with regard to the SSI ratio, the Medicare contractor shall contact the hospital via letter, using a method that tracks delivery and receipt, to obtain the required information and if the provider does not respond within 30 days of the date of the letter, the Medicare contractor shall inform CMS that no election was provided. In this instance, CMS will provide a realigned Medicare SSI ratio using the higher of the two revised Medicare-SSI fractions for the hospital's cost reporting period.

If a provider submitted a realignment request within 3 years of the NPR where there is no SSI appeal or SSI remand, the provider will receive its requested realignment using the original SSI ratio.

II. BUSINESS REQUIREMENTS TABLE

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

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
9896.1	Using the policy in this CR, contractors shall inform hospitals of the election available for hospital cost reporting periods that involve SSI ratios for federal fiscal year 2004 and earlier, or SSI ratios for hospital realignment requests to use its cost reporting periods, but only for those patient discharges occurring before October 1, 2004.	X								

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
9896.2	CR as Provider Education: Contractors shall post this entire instruction, or a direct link to this instruction, on their Web sites and include information about it in a listserv message within 5 business days after receipt of the notification from CMS announcing the availability of the article. In addition, the entire instruction must be included in the contractor's next regularly scheduled bulletin. Contractors are free to supplement it with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X				

IV. SUPPORTING INFORMATION

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

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Emily Lipkin, 410-786-3633 or emily.lipkin@cms.hhs.gov (Medicare DSH Policy), Dorothy Braunsar, 410-786-4037 or dorothy.braunsar@cms.hhs.gov

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

VI. FUNDING

Section A: 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.

ATTACHMENTS: 0