

TITLE 42 - THE PUBLIC HEALTH AND WELFARE**CHAPTER 6A - PUBLIC HEALTH SERVICE****SUBCHAPTER II - GENERAL POWERS AND DUTIES****Part D - Primary Health Care****subpart ix - support of graduate medical education programs in childrens hospitals****§ 256e. Program of payments to children's hospitals that operate graduate medical education programs****(a) Payments**

The Secretary shall make two payments under this section to each children's hospital for each of fiscal years 2000 through 2005 and each of fiscal years 2007 through 2011, one for the direct expenses and the other for indirect expenses associated with operating approved graduate medical residency training programs. The Secretary shall promulgate regulations pursuant to the rulemaking requirements of title 5 which shall govern payments made under this subpart.

(b) Amount of payments**(1) In general**

Subject to paragraphs (2) and (3), the amounts payable under this section to a children's hospital for an approved graduate medical residency training program for a fiscal year are each of the following amounts:

(A) Direct expense amount

The amount determined under subsection (c) of this section for direct expenses associated with operating approved graduate medical residency training programs.

(B) Indirect expense amount

The amount determined under subsection (d) of this section for indirect expenses associated with the treatment of more severely ill patients and the additional costs relating to teaching residents in such programs.

(2) Capped amount**(A) In general**

The total of the payments made to children's hospitals under paragraph (1)(A) or paragraph (1)(B) in a fiscal year shall not exceed the funds appropriated under paragraph (1) or (2), respectively, of subsection (f) of this section for such payments for that fiscal year.

(B) Pro rata reductions of payments for direct expenses

If the Secretary determines that the amount of funds appropriated under subsection (f)(1) of this section for a fiscal year is insufficient to provide the total amount of payments otherwise due for such periods under paragraph (1)(A), the Secretary shall reduce the amounts so payable on a pro rata basis to reflect such shortfall.

(3) Annual reporting required**(A) Reduction in payment for failure to report****(i) In general**

The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

(II) such report fails to provide the information required under any clause of such subparagraph.

(ii) Notice and opportunity to provide missing information

Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

(B) Annual report

The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the first year in which the hospital received payment under this section), including—

(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

(C) Residents

The residents described in this subparagraph are those who—

(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

(D) Report to Congress

Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

- (i) summarizing the information submitted in reports to the Secretary under subparagraph (B);
- (ii) describing the results of the program carried out under this section; and
- (iii) making recommendations for improvements to the program.

(c) Amount of payment for direct graduate medical education

(1) In general

The amount determined under this subsection for payments to a children's hospital for direct graduate expenses relating to approved graduate medical residency training programs for a fiscal year is equal to the product of—

- (A) the updated per resident amount for direct graduate medical education, as determined under paragraph (2); and
- (B) the average number of full-time equivalent residents in the hospital's graduate approved medical residency training programs (as determined under section 1395ww (h)(4) of this title during the fiscal year.

(2) Updated per resident amount for direct graduate medical education

The updated per resident amount for direct graduate medical education for a hospital for a fiscal year is an amount determined as follows:

(A) Determination of hospital single per resident amount

The Secretary shall compute for each hospital operating an approved graduate medical education program (regardless of whether or not it is a children's hospital) a single per resident amount equal to the average (weighted by number of full-time equivalent residents) of the primary care per resident amount and the non-primary care per resident amount computed under section 1395ww (h)(2) of this title for cost reporting periods ending during fiscal year 1997.

(B) Determination of wage and non-wage-related proportion of the single per resident amount

The Secretary shall estimate the average proportion of the single per resident amounts computed under subparagraph (A) that is attributable to wages and wage-related costs.

(C) Standardizing per resident amounts

The Secretary shall establish a standardized per resident amount for each such hospital—

- (i) by dividing the single per resident amount computed under subparagraph (A) into a wage-related portion and a non-wage-related portion by applying the proportion determined under subparagraph (B);
- (ii) by dividing the wage-related portion by the factor applied under section 1395ww (d)(3)(E) of this title for discharges occurring during fiscal year 1999 for the hospital's area; and
- (iii) by adding the non-wage-related portion to the amount computed under clause (ii).

(D) Determination of national average

The Secretary shall compute a national average per resident amount equal to the average of the standardized per resident amounts computed under subparagraph (C) for such hospitals, with the amount for each hospital weighted by the average number of full-time equivalent residents at such hospital.

(E) Application to individual hospitals

The Secretary shall compute for each such hospital that is a children's hospital a per resident amount—

(i) by dividing the national average per resident amount computed under subparagraph (D) into a wage-related portion and a non-wage-related portion by applying the proportion determined under subparagraph (B);

(ii) by multiplying the wage-related portion by the factor applied under section 1395ww (d)(3)(E) of this title for discharges occurring during the preceding fiscal year for the hospital's area; and

(iii) by adding the non-wage-related portion to the amount computed under clause (ii).

(F) Updating rate

The Secretary shall update such per resident amount for each such children's hospital by the estimated percentage increase in the consumer price index for all urban consumers during the period beginning October 1997 and ending with the midpoint of the Federal fiscal year for which payments are made.

(d) Amount of payment for indirect medical education

(1) In general

The amount determined under this subsection for payments to a children's hospital for indirect expenses associated with the treatment of more severely ill patients and the additional costs associated with the teaching of residents for a fiscal year is equal to an amount determined appropriate by the Secretary.

(2) Factors

In determining the amount under paragraph (1), the Secretary shall—

(A) take into account variations in case mix among children's hospitals and the ratio of the number of full-time equivalent residents in the hospitals' approved graduate medical residency training programs to beds (but excluding beds or bassinets assigned to healthy newborn infants); and

(B) assure that the aggregate of the payments for indirect expenses associated with the treatment of more severely ill patients and the additional costs related to the teaching of residents under this section in a fiscal year are equal to the amount appropriated for such expenses for the fiscal year involved under subsection (f)(2) of this section.

(e) Making of payments

(1) Interim payments

The Secretary shall determine, before the beginning of each fiscal year involved for which payments may be made for a hospital under this section, the amounts of the payments for direct graduate medical education and indirect medical education for such fiscal year and shall (subject to paragraph (2)) make the payments of such amounts in 12 equal interim installments during such period. Such interim payments to each individual hospital shall be based on the number of residents reported in the hospital's most recently filed Medicare cost report prior to the application date for the Federal fiscal year for which the interim payment amounts are established. In the case of a hospital that does not report residents on a Medicare cost report, such interim payments shall be based on the number of residents trained during the hospital's most recently completed Medicare cost report filing period.

(2) Withholding

The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1) as necessary to ensure a hospital will not be overpaid on an interim basis.

(3) Reconciliation

Prior to the end of each fiscal year, the Secretary shall determine any changes to the number of residents reported by a hospital in the application of the hospital for the current fiscal year

to determine the final amount payable to the hospital for the current fiscal year for both direct expense and indirect expense amounts. Based on such determination, the Secretary shall recoup any overpayments made and pay any balance due to the extent possible. The final amount so determined shall be considered a final intermediary determination for the purposes of section 1395oo of this title and shall be subject to administrative and judicial review under that section in the same manner as the amount of payment under section 1395ww (d)¹ of this title is subject to review under such section.

(f) Authorization of appropriations

(1) Direct graduate medical education

(A) In general

There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection (b)(1)(A) of this section—

- (i) for fiscal year 2000, \$90,000,000;
- (ii) for fiscal year 2001, \$95,000,000;
- (iii) for each of the fiscal years 2002 through 2005, such sums as may be necessary; and
- (iv) for each of fiscal years 2007 through 2011, \$110,000,000.

(B) Carryover of excess

The amounts appropriated under subparagraph (A) for fiscal year 2000 shall remain available for obligation through the end of fiscal year 2001.

(2) Indirect medical education

There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection (b)(1)(B) of this section—

- (A) for fiscal year 2000, \$190,000,000;
- (B) for fiscal year 2001, \$190,000,000;
- (C) for each of the fiscal years 2002 through 2005, such sums as may be necessary; and
- (D) for each of fiscal years 2007 through 2011, \$220,000,000.

(g) Definitions

In this section:

(1) Approved graduate medical residency training program

The term “approved graduate medical residency training program” has the meaning given the term “approved medical residency training program” in section 1395ww (h)(5)(A) of this title.

(2) Children’s hospital

The term “children’s hospital” means a hospital with a Medicare payment agreement and which is excluded from the Medicare inpatient prospective payment system pursuant to section 1395ww (d)(1)(B)(iii) of this title and its accompanying regulations.

(3) Direct graduate medical education costs

The term “direct graduate medical education costs” has the meaning given such term in section 1395ww (h)(5)(C) of this title.

Footnotes

¹ See References in Text note below.

(July 1, 1944, ch. 373, title III, § 340E, as added Pub. L. 106–129, § 4, Dec. 6, 1999, 113 Stat. 1671; amended Pub. L. 106–310, div. A, title XX, § 2001, Oct. 17, 2000, 114 Stat. 1155; Pub. L. 108–490, § 1(a), Dec. 23, 2004, 118 Stat. 3972; Pub. L. 109–307, § 2, Oct. 6, 2006, 120 Stat. 1721.)

References in Text

Section 1395ww (d) of this title, referred to in subsec. (e)(3), was in the original “section 1186(d) of such Act” and was translated as reading “section 1886(d) of such Act”, meaning section 1886(d) of the Social Security Act, to reflect the probable intent of Congress, because the Social Security Act does not contain a section 1186 and section 1395ww (d) of this title relates to review of inpatient hospital service payments.

Amendments

2006—Subsec. (a). Pub. L. 109–307, § 2(a)(1), inserted “and each of fiscal years 2007 through 2011” after “for each of fiscal years 2000 through 2005”.

Subsec. (b)(1). Pub. L. 109–307, § 2(b)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)” in introductory provisions.

Subsec. (b)(3). Pub. L. 109–307, § 2(b)(2), added par. (3).

Subsec. (c)(2)(E)(ii). Pub. L. 109–307, § 2(c)(1), substituted “applied under section 1395ww (d)(3)(E) of this title for discharges occurring during the preceding fiscal year” for “described in subparagraph (C)(ii)”.

Subsec. (e)(1). Pub. L. 109–307, § 2(a)(2), substituted “12” for “26”.

Subsec. (e)(2). Pub. L. 109–307, § 2(c)(2), struck out first sentence which read as follows: “The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1).”

Subsec. (e)(3). Pub. L. 109–307, § 2(c)(3), substituted “made and pay” for “made to pay”.

Subsec. (f)(1)(A)(iv). Pub. L. 109–307, § 2(a)(3), added cl. (iv).

Subsec. (f)(2). Pub. L. 109–307, § 2(a)(4)(A), substituted “subsection (b)(1)(B)” for “subsection (b)(1)(A)” in introductory provisions.

Subsec. (f)(2)(D). Pub. L. 109–307, § 2(a)(4)(B)–(D), added subpar. (D).

2004—Subsec. (d)(1). Pub. L. 108–490, § 1(a)(1), substituted “costs associated with” for “costs related to”.

Subsec. (d)(2)(A). Pub. L. 108–490, § 1(a)(2), inserted “ratio of the” after “hospitals and the” and “to beds (but excluding beds or bassinets assigned to healthy newborn infants)” before semicolon.

2000—Subsec. (a). Pub. L. 106–310, § 2001(a), substituted “2000 through 2005” for “2000 and 2001” and inserted at end “The Secretary shall promulgate regulations pursuant to the rulemaking requirements of title 5 which shall govern payments made under this subpart.”

Subsec. (c)(2)(F). Pub. L. 106–310, § 2001(b), substituted “Federal fiscal year for which payments are made” for “hospital’s cost reporting period that begins during fiscal year 2000”.

Subsec. (e)(1). Pub. L. 106–310, § 2001(c), inserted at end “Such interim payments to each individual hospital shall be based on the number of residents reported in the hospital’s most recently filed Medicare cost report prior to the application date for the Federal fiscal year for which the interim payment amounts are established. In the case of a hospital that does not report residents on a Medicare cost report, such interim payments shall be based on the number of residents trained during the hospital’s most recently completed Medicare cost report filing period.”

Subsec. (e)(2). Pub. L. 106–310, § 2001(d), inserted “and indirect” after “interim installment for direct” and inserted at end “The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1) as necessary to ensure a hospital will not be overpaid on an interim basis.”

Subsec. (e)(3). Pub. L. 106–310, § 2001(e), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “At the end of each fiscal year for which payments may be made under this section, the hospital shall submit to the Secretary such information as the Secretary determines to be necessary to determine the percent (if any) of the total amount withheld under paragraph (2) that is due under this section for the hospital for the fiscal year. Based on such determination, the Secretary shall recoup any overpayments made, or pay any balance due. The amount so determined shall be considered a final intermediary determination for purposes of applying section 1395oo of this title and shall be subject to review under that section in the same manner as the amount of payment under section 1395ww (d) of this title is subject to review under such section.”

Subsec. (f)(1)(A)(iii). Pub. L. 106–310, § 2001(f)(1), added cl. (iii).

Subsec. (f)(2)(C). Pub. L. 106–310, § 2001(f)(2), added subpar. (C).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Subsec. (g)(2). Pub. L. 106-310, § 2001(g), substituted “with a Medicare payment agreement and which is excluded from the Medicare inpatient prospective payment system pursuant to section 1395ww (d)(1)(B)(iii) of this title and its accompanying regulations” for “described in section 1395ww (d)(1)(B)(iii) of this title”.

Effective Date of 2004 Amendment

Pub. L. 108-490, § 1(b), Dec. 23, 2004, 118 Stat. 3972, provided that: “The amendments made by subsection (a) [amending this section] shall apply to payments for periods beginning with fiscal year 2005.”