

405.1100, and 405.1128.) If a hospital submits an appeal of a determination that a Part A inpatient admission was not reasonable and necessary, the only issue before the adjudicator is the propriety of the Part A claim, not any issue regarding any potential Part B claim the provider has not yet submitted.

Patient Status Under the Ruling

For the Part B claims billed under this Ruling, the beneficiary's patient status remains inpatient as of the time of inpatient admission and is not changed to outpatient, because the beneficiary was formally admitted as an inpatient and there is no provision to change a beneficiary's status after she/he is discharged from the hospital. The beneficiary is considered an outpatient for services billed on the Part B outpatient claim, and is considered an inpatient for services billed on the Part B inpatient claim.

Part A to Part B Rebilling Demonstration

The Part A to Part B Rebilling Demonstration is being terminated. We will communicate to hospitals and contractors the details regarding termination of this Demonstration.

Operational Considerations

We will issue operational and any other applicable regulatory guidance that is necessary to implement this Ruling, including the mechanics of how hospitals should bill for Part B inpatient and Part B outpatient services under this Ruling.

Instructions to Contractors

All Medicare contractors including MACs and QICs must implement and follow this Ruling until such time as CMS addresses these issues further.

Held: Pursuant to this Ruling, when a Part A claim for a hospital inpatient admission is denied by a Medicare review contractor because the inpatient admission was not reasonable and necessary, the hospital may submit a Part B inpatient claim for more services than just those listed in the MBPM, Chapter 6, Section 10, to the extent additional reasonable and necessary services were furnished. In this case, the hospital may submit a Part B inpatient claim for payment for the Part B services that would have been payable to the hospital had the beneficiary originally been treated as an outpatient rather than admitted as an inpatient, except when those services specifically require an outpatient status, for example, outpatient visits, emergency department visits, and observation services. Hospitals must submit their Part B claim within the timeframes specified in this Ruling. Further, where no Part A payment is made because the Part A inpatient claim is denied on the basis that the inpatient admission was not reasonable and necessary, hospitals may continue to bill separately for the outpatient services furnished during the 3-day (or 1-day for non-IPPS hospitals) payment window prior to the inpatient admission, including observation and other services that were furnished in accordance with Medicare's requirements. In order to prevent duplicate billing and payment, a hospital may not have simultaneous requests for payment under

both Parts A and B for the same services provided to a single beneficiary on the same dates of service. Thus, if a hospital chooses to submit a Part B claim for payment following the denial of a Part A inpatient admission, the hospital cannot also maintain its request for payment for the same services on the Part A claim. This Ruling applies to Part A hospital inpatient claims that were denied by a Medicare review contractor because the inpatient admission was determined not reasonable and necessary, as long as the denial was made: (1) While this Ruling is in effect; (2) prior to the effective date of this Ruling, but for which the timeframe to file an appeal has not expired; or (3) prior to the effective date of this Ruling, but for which an appeal is pending. This Ruling does not apply to Part A hospital inpatient claim denials for which the timeframe to appeal expired prior to the effective date of this Ruling, and it does not apply to inpatient admissions deemed by the hospital to be not reasonable and necessary (for example, through utilization review or other self-audit). For the Part B claims billed under this Ruling, the beneficiary's patient status remains inpatient as of the time of inpatient admission and is not changed to outpatient, because the beneficiary was formally admitted as an inpatient and there is no provision to change a beneficiary's status after she/he is discharged from the hospital. The beneficiary is considered an outpatient for services billed on the Part B outpatient claim, and is considered an inpatient for services billed on the Part B inpatient claim.

Effective Date

This Ruling is effective March 13, 2013.

Dated:

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2013-06159 Filed 3-13-13; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737-2141-02 and 1112113751-2102-02]

RIN 0648-XC569

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed Under the Individual Fishing Quota Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for sablefish with fixed gear

managed under the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program. The season will open 1200 hours, Alaska local time (A.l.t.), March 23, 2013, and will close 1200 hours, A.l.t., November 7, 2013. This period is the same as the 2013 commercial halibut fishery opening dates adopted by the International Pacific Halibut Commission. The IFQ and CDQ halibut season is specified by a separate publication in the **Federal Register** of annual management measures.

DATES: Effective 1200 hours, A.l.t., March 23, 2013, until 1200 hours, A.l.t., November 7, 2013.

FOR FURTHER INFORMATION CONTACT:

Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut and sablefish with fixed gear in the IFQ regulatory areas defined in 50 CFR 679.2 has been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 679.23(g)(1), which requires that the directed fishing season for sablefish managed under the IFQ Program be specified by the Administrator, Alaska Region, and announced by publication in the **Federal Register**. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Administrator, Alaska Region, and the halibut season, adopted by the International Pacific Halibut Commission (IPHC). The directed fishing season for sablefish with fixed gear managed under the IFQ Program will open 1200 hours, A.l.t., March 23, 2013, and will close 1200 hours, A.l.t., November 7, 2013. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC. The IFQ halibut season will be specified by a separate publication in the **Federal Register** of annual management measures pursuant to 50 CFR 300.62.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries

data in a timely fashion and would delay the opening of the sablefish fishery thereby increasing bycatch and regulatory discards between the sablefish fishery and the halibut fishery, and preventing the accomplishment of the management objective for simultaneous opening of these two fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 14, 2013.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C.

553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.23 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 13, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013-06168 Filed 3-15-13; 8:45 am]

BILLING CODE 3510-22-P