

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the following segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930.

Specifically, the Coast Guard will enforce this safety zone on all waters of the Chicago Sanitary and Ship Canal between Mile Marker 296.1 to Mile Marker 296.7. Enforcement will occur on each Monday through Friday from 7 a.m. until 5 p.m., from December 21, 2018 until February 8, 2019. All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her designated representative to enter into, transit, moor, lay up or anchor within any enforced segment of the safety zone when the safety zone is enforced. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Captain of the Port Lake Michigan will also provide notice through other means, which will include Broadcast Notice to Mariners, Local Notice to Mariners, and distribution in leaflet form. Additionally, the Captain of the Port Lake Michigan may notify representatives from the maritime industry through telephonic and email notifications. If the Captain of the Port or a designated representative determines that the regulated area need not be enforced for the full duration stated in this notice of enforcement or suspends the safety zone in part, he or she may use a Broadcast Notice to Mariners, Local Notice to Mariners, and may notify representatives from the maritime industry through telephonic and email notifications to grant general permission to enter the regulated area. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF-FM or at (414) 747-7182.

Dated: December 20, 2018.

**Thomas J. Stuhldreier,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 413 and 414

[CMS-1691-CN]

RIN 0938-AT28

#### **Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP) and Fee Schedule Amounts, and Technical Amendments To Correct Existing Regulations Related to the CBP for Certain DMEPOS; Correction**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical and typographical errors that appeared in the final rule published in the **Federal Register** on November 14, 2018 titled “Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP) and Fee Schedule Amounts, and Technical Amendments To Correct Existing Regulations Related to the CBP for Certain DMEPOS.”

**DATES:** *Effective Date:* This correction is effective on January 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Alexander Ullman, (410) 786-9671 and [DMEPOS@cms.hhs.gov](mailto:DMEPOS@cms.hhs.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In FR Doc. 2018-24238 of November 14, 2018 (83 FR 56922), there were technical and typographical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction document are effective as if they had been included in the document published on November 14, 2018. Accordingly, the corrections are effective January 1, 2019.

##### **II. Summary of Errors**

On page 57029, we inadvertently made several technical and typographical errors by referencing the final rule instead of the proposed rule. We are correcting those errors by replacing references to “this rule” and “this final rule” with the correct reference to the Calendar Year (CY) 2019 End-Stage Renal Disease Prospective Payment System, Durable Medical Equipment, Prosthetics, Orthotics and Supplies (CY 2019 ESRD PPS DMEPOS) proposed rule.

##### **III. Waiver of Proposed Rulemaking**

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary of the Department of Health and Human Services to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correcting document does not constitute a rulemaking that would be subject to the notice and comment or delayed effective date requirements of the APA or section 1871 of the Act. This document simply corrects technical and typographical errors in the preamble, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result,

this correcting document is intended to ensure that the information in the final rule accurately reflects the policies adopted in that document.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document in the final rule or delaying the effective date of the corrections would be contrary to the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies we previously proposed, received public comment on, and subsequently finalized in the final rule. For these reasons, we believe that we have good cause to waive the notice and comment and delay in effective date requirements.

#### IV. Correction of Errors

In FR Doc. 2018–24238 of November 14, 2018 (83 FR 56922), make the following corrections:

1. On page 57029, first column, second full paragraph,
  - a. In line 16, the reference “this rule” is corrected to read “the CY 2019 ESRD PPS DMEPOS proposed rule”.
  - b. In line 17, the reference “this final rule” is corrected to read “the CY 2019 ESRD PPS DMEPOS proposed rule”.
2. On page 57029, second column, second full paragraph, in lines 27 and 28, the reference “this final rule” is corrected to read “the CY 2019 ESRD PPS DMEPOS proposed rule”.

Dated: December 20, 2018.

**Ann C. Agnew,**

*Executive Secretary to the Department,  
Department of Health and Human Services.*

[FR Doc. 2018–28347 Filed 12–21–18; 4:15 pm]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 416 and 419

[CMS–1695–CN2]

RIN 0938–AT30

#### Medicare Program: Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Correction

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical and typographical errors in the final rule with comment period that appeared in the November 21, 2018 **Federal Register** titled “Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs.”

**DATES:** The corrections in this document are effective January 1, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Marjorie Baldo via email [Marjorie.Baldo@cms.hhs.gov](mailto:Marjorie.Baldo@cms.hhs.gov) or at (410) 786–4617.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

In FR Doc. 2018–24243 of November 21, 2018 (83 FR 58818), there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section of this correcting document. The provisions in this correction document are effective as if they had been included in the document that appeared in the November 21, 2018 **Federal Register**. Accordingly, the corrections are effective January 1, 2019.

#### II. Summary of Errors

##### A. Summary of Errors in the Preamble

##### 1. Hospital Outpatient Prospective Payment System (OPPS) Corrections

On page 58822, we are correcting the section “Payment of Drugs, Biologicals, and Radiopharmaceuticals If Average Sales Price (ASP) Data Are Not Available” to remove the language that suggests that drugs with pass-through status with partial quarter WAC-based pricing are not paid at WAC + 3, which is incorrect. This correction is necessary to conform the introductory language regarding OPPS payment policy for drugs, biologicals, and

radiopharmaceuticals with WAC-based pricing with the policy adopted in the final rule to pay for these drugs, biologicals, and radiopharmaceuticals, including those with pass-through status, at WAC + 3 percent.

On page 58825, the headings for subsections “c. Impact of the Changes to the Hospital OQR Program” and “d. Impact of the Changes to the ASCQR Program” were alphabetically mislabeled and are corrected to be “g. Impact of the Changes to the Hospital OQR Program” and “h. Impact of the Changes to the ASCQR Program,” respectively.

On page 58833, Healthcare Common Procedure Coding System (HCPCS) code P9072 (Platelets, pheresis, pathogen reduced or rapid bacterial tested, each unit) was cited in a comment in error. The correct HCPCS code is “P9073” not “P9072”.

On page 58834, we transposed two numbers in the Healthcare Common Procedure Coding System (HCPCS) code P9037 (Platelets, pheresis, leukocytes reduced, irradiated, each unit). The correct HCPCS code is “P9037”, not “P9073”.

On page 58880, in “Table 12.—New Level II HCPCS Codes Effective April 1, 2018,” we incorrectly stated that the Medicare Ambulatory Payment Classification (APC) assignment for HCPCS code C9749 (Repair nasal stenosis w/imp) is “APC 5164,” rather than “APC 5165.” The correct APC assignment for this code is APC 5165, which we finalized on page 58922.

On page 58909, under section “6. Endovascular Procedures (APCs 5191 through 5194)” of the “OPPS APC-Specific Policies” section, we inadvertently omitted a summary of a public comment and our response related to new calendar year (CY) 2019 Common Procedural Terminology (CPT) code 33274. Therefore, we are revising the discussion to include the comment and response.

On pages 58894 to 58897, we occasionally stated the wrong APC assignment for procedure code C9734 (Focused ultrasound ablation/therapeutic intervention, other than uterine leiomyomata, with magnetic resonance (mr) guidance) for CY 2018 and CY 2019. The correct APC assignment for procedure code C9734 is APC 5114 for CY 2018 and APC 5115 for CY 2019.

On page 58928 of the “OPPS APC-Specific Policies” section, we inadvertently omitted a summary of a public comment and response related to existing CPT code 47382 and new CY 2019 CPT code 95983. Therefore, we are adding a new subsection titled “21.