

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

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

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

**CMS-1771-F**

**RINs 0938-AU84**

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 2023 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Costs Incurred for Qualified and Non-Qualified Deferred Compensation Plans; and Changes to Hospital and Critical Access Hospital Conditions of Participation

***Federal Register Vol. 87, No. 153, Page 48780, August 10, 2022***

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-2023-ipp-pps-final-rule-home-page>.

The final rule that appeared in the August 10, 2022 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 2023. 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 2023. 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, the Long-Term Care Hospital Quality Reporting programs, the Rural Community Hospital Demonstration Program and the Frontier Community Health Integration Project.

This rule also revises the hospital and critical access hospital (CAH) conditions of participation (CoPs) for infection prevention and control and antibiotic stewardship

programs and codifies and clarifies policies related to the costs incurred for qualified and non-qualified deferred compensation plans.

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 the final rule, though we expect that general medical and surgical hospitals would be most affected.

#### SIZE STANDARDS BY AFFECTED INDUSTRY

NAICS Code	NAICS Industry Description	Size Standard
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 vary considerably by type of hospital, location, bed size, and other variables. We estimate that IPPS hospitals will on average see increases in operating payments in the range of 2.6 percent in FY 2023, primarily due to the hospital rate update. On average, the rate update for these hospitals is estimated to be 4.2 percent.

The final rule imposes 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>.