

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services**

Decision of the Administrator

IN THE CASE OF:	*	MGCRB Case No. 24C0145
	*	
Mercy Hospital Lebanon	*	
	*	
	*	
Provider No. 26-0059	*	Date: January 31, 2023
	*	

This case is before the Administrator, Centers for Medicare & Medicaid Services (CMS), for review of the decision entered by the Medicare Geographic Classification Review Board (MGCRB). The review is during the time period in 42 C.F.R. § 412.278. The Hospital submitted comments requesting the Administrator reverse the MGCRB’s decision. Accordingly, this case is now before the Administrator for final agency review.

ISSUE AND MGCRB DECISION

The issue involves whether the MGCRB properly denied the Hospital’s request to reclassify from rural Missouri to the urban Springfield, Missouri (MO) Core-Based Statistical Area (CBSA) for purposes of using the area’s wage index to determine its payment rate under the Medicare inpatient prospective payment system (IPPS) for the Federal Fiscal Years (FFY) 2024 through 2026. The MGCRB found that the Hospital’s average hourly wage (AHW) is required to be at least 106.0000 percent of the AHW of all other hospitals in the area in which the Hospital is located; the AHW comparison was calculated by the MGCRB to be 103.7438 percent.

HOSPITAL’S COMMENTS

The Hospital commented, requesting review by the Administrator. The Hospital stated that it believed the MGCRB incorrectly used the Hospital’s AHW in the calculation, and attached a worksheet that showed the comparisons with both inclusion and exclusion of the Hospital in the 3 year AHW calculations and by using both sets of CMS tables: the Three Year MGCRB Reclassification Data for FY 2024 Applications and the FY 2023 Final Rule and Correction Amendment Tables 2, 3, and 4A and 4B (Wage Index Tables). The Hospital argued that when using the Three Year MGCRB data files, they clearly met the 106 percent criteria whether including or excluding the provider’s AHW.¹ The Hospital used \$37.65 as its AHW, and \$34.81

¹ In the attached Worksheet, the Hospital also stated that it was a Rural Referral Center (RRC) and a Sole Community Hospital (SCH), and that as an RRC, it was exempt from meeting the 106 percent test. However, in its MGCRB application, when asked “Is the provider currently a rural referral center (‘RRC’)?” the Hospital answered “No”. When asked “Has the provider ever been an RRC?” the Hospital also answered “No”. There is nothing in the Hospital’s MGCRB application or in the Administrative Record to show that the Hospital is, in fact, an RRC.

as the AHW of rural Missouri, excluding the Hospital. This resulted in a calculation of 108.161 percent.²

DISCUSSION

The entire record furnished by the MGCRB has been examined, including any correspondence, position papers, exhibits, and subsequent submissions. All comments received timely are included in the record and have been considered.

Section 1886(d)(10)(C)(iii)(II) of the Social Security Act and the Medicare regulations at 42 C.F.R. § 412.278 provide for the CMS Administrator's review of the MGCRB decisions. In exercising its authority under § 1886(d)(10) of the Act, the MGCRB must comply with all of the provisions of Title XVIII of the Act and the regulations issued there under, including the regulations at 42 C.F.R. § 412.230, *et seq.* Likewise, the regulations promulgated by the Secretary establishing procedures and criteria for the MGCRB are binding on the agency and on the Administrator in reviewing MGCRB decisions.

Section 1886(d)(10) of the Act provides for the MGCRB to consider the application of any subsection (d) hospital requesting that the Secretary change the hospital's geographic classification for purposes of determining for a fiscal year its wage index. Further, § 1886(d)(10)(D)(i)(I) requires the Secretary to publish guidelines for comparing wages, taking into account to the extent the Secretary determines appropriate, occupational mix in the area in which the hospital is classified and the area in which the hospital is applying to be classified.

Pursuant to the statute, the Secretary established 42 C.F.R. § 412.230 setting forth criteria for an individual hospital seeking redesignation to another rural area or an urban area. Per the regulation in subsection (a):

(ii) Effective for fiscal year 2005 and subsequent fiscal years, an individual hospital may be redesignated from an urban area to another urban area, from a rural area to another rural area, or from a rural area to another urban area for the purposes of using the other area's wage index value.

(iii) An urban hospital that has been granted redesignation as rural under § 412.103 is considered to be located in the rural area of the state for the purposes of this section.

A hospital must demonstrate that it meets certain proximity criteria to be redesignated to the requested area. There are also wage criteria which must be met. Pertinent to this case, the regulation at 42 C.F.R. § 412.230(d)(1)(iii)(C) notes:

With respect to redesignations for Federal fiscal year 2006 and subsequent years, the hospital's average hourly wage is, in the case of a hospital located in a rural area, at least 106 percent and in the case of a hospital located in an urban area, at

² The Administrator notes that 37.65/34.81 calculates to 108.1586 percent, and it is unclear how the Hospital calculated it to be 108.161 percent.

least 108 percent of the average hourly wage of all other hospitals in the area in which the hospital is located

Regarding what wage data the hospital must submit, for redesignations effective beginning FY 2003, 42 C.F.R. § 412.230(d)(2)(ii) notes:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

Specifically, MGCRB Rule 5.2(B) states:

(4) *Appropriate wage data.* The provider must submit a weighted 3-year average of its hospital-specific data, plus a weighted 3-year average of the AHW in both the area in which the hospital is located and the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

The Board will use the *final* official wage data in evaluating if a provider meets the redesignation criteria. Providers may obtain this wage data information via the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-ServicePayment/AcuteInpatientPPS/Wage-Index-Files.html> by accessing the “Three Year MGCRB Reclassification Data” file for the appropriate FFY. Any inquiries concerning the CMS wage data should be directed to wageindex@cms.hhs.gov.

The “Three Year MGCRB Reclassification Data for FY 2024 Applications” is available on the CMS website under Acute Inpatient PPS Wage Index Files. The three year AHW uses the FYs 2021, 2022, and 2023 wage surveys. Consistent with the law, the wage data is taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes. Neither the MGCRB, nor the Administrator can alter this data when making a decision regarding reclassification. In addition, 42 C.F.R. § 412.230(a)(4) states that: “rounding of numbers to meet certain mileage or qualifying percentage standards is not permitted.”

In this case, the MGCRB correctly found that, using the appropriate data, the Hospital did not meet the 106 percent test under 42 C.F.R. § 412.230(d)(1)(iii)(C). While the Hospital used \$37.65 as its AHW, and \$34.81 as the AHW of rural Missouri, excluding the Hospital, resulting in a calculation of 108.161 percent, the Hospital did not use the correct calculations to get the AHW

for the Hospital or for rural Missouri.³ The Hospital's pre-reclassified AHW is \$37.4648⁴, while the pre-reclassified AHW for rural Missouri, **excluding** the Hospital, is \$36.1128⁵. Thus, the AHW comparison is calculated by the Administrator to be 103.7439 percent.⁶ In light of the foregoing and based on the record, the Administrator finds that the MGCRB properly determined that the Hospital did not qualify for redesignation.

³ The Hospital found the AHW of \$34.81 for rural Missouri by calculating a 3 year average for EACH hospital in rural Missouri as follows:

2020 wages/2020 hours=A
2021 wages/2021 hours=B
2022 wages/2022 hours=C

3 Year AHW= (A+B+C)/3

Then they added up the 3 year average for all of the hospitals in rural Missouri and divided that by 23 (the number of hospitals in rural Missouri).

Similarly, they found the \$37.65 AHW for their Hospital as follows:

2020 wages/2020 hours=A
2021 wages/2021 hours=B
2022 wages/2022 hours=C

3 Year AHW=(A+B+C)/3

⁴ This is correctly calculated by adding the Hospital's 2021, 2022, and 2023 wages (\$107,555,423.9000), and then dividing this by the Hospital's total number of hours for 2021, 2022 and 2023 (2,870,837).

⁵ This is correctly calculated by adding the 2021, 2022, and 2023 wages for all hospitals, **excluding** Mercy Hospital Lebanon, located in rural Missouri (\$2,246,853,671.0800) and then dividing this by the total number of hours for 2021, 2022 and 2023 for all hospitals, **excluding** Mercy Hospital Lebanon, located in rural Missouri (62,217,641.0000).

⁶ $(37.4648/36.1128)*100=103.7439$ percent. The AHW comparison was calculated by the MGCRB to be 103.7438 percent, a difference of .0001 percent, likely due to differing place value calculations.

DECISION

The Administrator affirms the MGCRB's decision in accordance with the foregoing opinion.

**THIS CONSTITUTES THE FINAL ADMINISTRATIVE DECISION OF THE
SECRETARY OF HEALTH AND HUMAN SERVICES**

Date: April 27, 2023

/s/

Jonathan Blum
Principal Deputy Administrator
Centers for Medicare & Medicaid Services