

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

*Decision of the Administrator*

<b>IN THE CASE OF:</b>	*	<b>MGCRB Case No. 25C0105</b>
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<b>Parkland Health Center</b>	*	
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<b>Provider No. 26-0163</b>	*	<b>Date: January 23, 2024</b>
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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 90-day period in § 1886(d)(10) of the Social Security Act (Act), as amended.<sup>1</sup> The Hospital requested that the Administrator reverse the MGCRB’s denial of its reclassification application. 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 for reclassification. The Hospital, geographically located in rural Missouri requested reclassification to rural Illinois 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) 2025 through 2027. The MGCRB noted that the requested area is required to be no farther than 35.00 miles under the proximity requirements. The MGCRB measured the distance as 36.3 miles.

HOSPITAL’S COMMENTS

The Hospital commented, requesting review by the Administrator. The Hospital stated that it submitted a Bing map with its application showing that the distance from the Hospital’s front entrance to the requested area was 31.6 miles. The Hospital noted that the MGCRB might have clicked on the URL for the Bing Map, rather than actually looking at the map attached to the Hospital’s application and averred that URLs will sometimes lead to a different route than what was originally calculated. However, the Hospital maintained, as it included map evidence showing the shortest route as 31.6 miles, it meets the distance criteria.

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<sup>1</sup> 42 U.S.C. § 1395ww(d).

## 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.<sup>2</sup>

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.

The regulation at 42 C.F.R. § 412.230 sets forth criteria for an individual hospital seeking redesignation to another rural area or an urban area, stating in part at (a)(1)(ii) that:

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.

The regulation at 42 C.F.R. § 412.230(a)(5) states the following limitations on redesignation:

- (i) An individual hospital may not be redesignated to another area for purposes of the wage index if the pre-reclassified average hourly wage for that area is lower than the pre-reclassified average hourly wage for the area in which the hospital is located. 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 paragraph (a)(5)(i).
- (ii) A hospital may not be redesignated to more than one area, except for an urban hospital that has been granted redesignation as rural under § 412.103 and receives an additional reclassification by the MGCRB.

A hospital must also demonstrate that it meets certain proximity criteria to be redesignated to the requested area. 42 C.F.R. § 412.230(a) provides that:

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<sup>2</sup> *United States v. Nixon*, 418 U.S. 683, 694-96 (1974). See also K. Davis and R. Pierce, *Administrative Law Treatise* §6.5 at 251 (3<sup>rd</sup> ed. 1994).

(2) *Proximity.* Except as provided in paragraph (a)(3) of this section, to be redesignated to another rural area or an urban area, a hospital must demonstrate a close proximity to the area to which it seeks redesignation by meeting the criteria in paragraph (b) of this section, and submitting data requested under paragraph (c) of this section.

The regulation at § 412.230(b) states:

*Proximity criteria.* A hospital demonstrates a close proximity with the area to which it seeks redesignation if one of the following conditions applies: (1) The distance from the hospital to the area is no more than 15 miles for an urban hospital and no more than 35 miles for a rural hospital. (2) At least 50 percent of the hospital's employees reside in the area.

In this case, the MGCRB found that the Hospital, which is located in rural Missouri, met all the criteria to be reclassified to rural Illinois, except for the 35-mile proximity requirement. The MGCRB found that the requested area was 36.3 miles. However, the Administrator, using Google Maps, finds that the Hospital meets the 35.00 mile requirement. The Administrator notes that the route found on Google Maps that meets the requirement, as well as the route provided by the Hospital includes the use of a ferry.<sup>3</sup> The purpose of the MGCRB reclassification process is to allow Hospitals to compete with neighboring labor markets. Based upon the Hospital's designated public access route to the county line, the Hospital meets the 35-mile proximity requirement using the ferry. The MGCRB and the Administrator have both allowed the use of a ferry in previous MGCRB cases.<sup>4</sup> As noted by the U.S. Department of Transportation:<sup>5</sup>

Ferry boats offer a valuable option for people living near waterways across the nation traveling to jobs, schools, medical services, grocery stores, and other

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<sup>3</sup> The Ste. Genevieve-Modoc River Ferry is Owned by the New Bourbon Regional Port Authority and operated by Ste. Gen-Modoc Ferry Inc. The ferry operates year-round, except when river conditions make ferry operation unsafe. The Ste. Genevieve-Modoc Ferry provides transport between Sainte Genevieve, Missouri and southern Illinois.

<sup>4</sup> See, e.g., *Lawrence & Memorial Hospital*, MGCRB Case No. 15C0187-1, in which the MGCRB found that Lawrence & Memorial Hospital, located in the Norwich-New London, CT CBSA (the same CBSA as the Hospital in the present case) was 7.7 miles from the Suffolk County, NY line and allowed it to reclassify to the Nassau County-Suffolk County, NY CBSA based on it being the closest CBSA. See also Administrator's Decisions in *Adirondack Medical Center*, MGCRB Case No. 22C0178 and 19C0277; *Beebe Medical Center*, MGCRB Case Nos. 22C0296 and 19C0212; *Backus Medical Center*, MGCRB Case Nos. 21C0293 and 18C0195; *Lawrence + Memorial Hospital*, MGCRB Case Nos. 24C0541 and 21C0289; *Windham Community Memorial Hospital & Hatch Hospital*, MGCRB Case Nos. 24C0542 and 21C0294; and *Bridgport Hospital*, MGCRB Case No. 24C0494 .

<sup>5</sup> See "DOT support for improved ferry service boosts another transportation option", published Feb. 5, 2013. Available online at <http://usdotblog.typepad.com/secretarysblog/2013/02/dot-support-for-improved-ferry-service-boosts-another-transportation-option.html>.

important destinations. As FHWA Administrator Victor Mendez said, “Ferry service represents a key transportation link for certain communities--much like highways and bridges do in other areas.”

In light of the foregoing and based on the record presented by the Hospital, the Administrator reverses the MGRB decision. As the Hospital also met the other necessary criteria, including the wage comparison criteria for redesignation, the Hospital qualifies for redesignation to the rural Illinois CBSA, for purposes of using that area’s wage index to determine its payment rate under the Medicare IPPS for the FFYs 2025 through 2027.

DECISION

The Administrator reverses the MGCRB's decision in this case.

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

Date: March 15, 2024

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Jonathan Blum  
Principal Deputy Administrator  
Centers for Medicare & Medicaid Services