

**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. 25C0214</b>
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<b>El Paso Healthcare System LTD</b>	*	
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<b>Provider No. 45-0107</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 submitted comments requesting that 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 the urban El Paso, Texas (TX) Core-Based Statistical Area (CBSA) to the urban Las Cruces, New Mexico (NM) 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) 2025 through 2027. The MGCRB found that the Hospital’s average hourly wage (AHW) is required to be at least 108.0000 percent of the AHW of all other Hospital’s in the area in which the Hospital is located; however, the MGCRB calculated the AHW comparison to be 106.7996 percent and denied the application.

HOSPITAL’S COMMENTS

The Hospital commented, requesting review by the Administrator. The Hospital stated that the calculations used by the MGCRB were incorrect because the MGCRB did not account for the fact that the Hospital’s Medicare Administrative Contractor split the Hospital’s campuses in the wage data for FFY 2024. The Hospital noted that Las Palmas Del Sol Healthcare is made up of two campuses in the same CBSA (Las Palmas campus and Del Sol Campus). The Hospital pointed out that because the two campuses are in the same CBSA they should not be split for wage index purposes, but the MAC insisted on doing so. Thus, the Hospital argued, the other campus must be

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<sup>1</sup> 42 U.S.C. § 1395ww(d).

accounted, which the MGCRB did not do. The Hospital noted that when the data from the other campus is included in the applicant "Hospital's" AHW, the 108 percent threshold is met.

### 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."

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. The regulation in part states 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.

In addition, a hospital must demonstrate that it meets certain proximity criteria to be redesignated to the requested area. 42 C.F.R. § 412.230 provides that:

(a)(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.

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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).

(b) *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.

42 C.F.R. § 412.230(d)(1) sets forth the wage criteria which must be met, stating:

(d) *Use of urban or other rural area's wage index—*(1) *Criteria for use of area's wage index.* Except as provided in paragraphs (d)(3) and (d)(4) of this section, to use an area's wage index, a hospital must demonstrate the following:

(i) The hospital's incurred wage costs are comparable to hospital wage costs in an urban or other rural area;

(ii) The hospital has the necessary geographic relationship as specified in paragraphs (a) and (b) of this section;

(iii) One of the following conditions apply:

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(C) 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 least 108 percent of the average hourly wage of all other hospitals in the area in which the hospital is located;**

(iv) One of the following conditions apply:

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(E) With respect to redesignations for fiscal year 2011 and later fiscal years, the hospital's average hourly wage is equal to, in the case of a hospital located in a rural area, at least 82 percent, and in the case of a hospital located in an urban area, at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation. (Emphasis added.)

42 C.F.R. § 412.230(d)(2) discusses appropriate wage data, stating:

(2) *Appropriate wage data.* For a wage index change, the hospital must submit appropriate wage data as follows:

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(ii) For redesignations effective beginning FY 2003:

(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. However, for the limited purpose of qualifying for geographic reclassification based on wage data from cost reporting periods beginning prior to FY 2000, a hospital may request that its wage data be revised if the hospital is in an urban area that was subject to the rural floor for the period during which the wage data the hospital wishes to revise were used to calculate its wage index.

(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.

(v) For applications submitted for reclassification effective in FY 2009 and thereafter, a campus of a multicampus hospital that is located in a geographic area different from the area associated with the provider number of the entire multicampus hospital may seek reclassification to another CBSA using the composite wage data of the entire multicampus hospital as its hospital-specific data.

In this case, the MGCRB found that the Hospital met all the criteria to be reclassified to the urban Las Cruces, NM CBSA except for the 108 percent criteria of 42 C.F.R. § 412.230(d)(1)(iii)(C). The MGCRB calculated the AHW comparison to be 106.7996 percent.

The Hospital is part of a multicampus hospital system. The main campus is CCN 450107 and the subcampus was assigned CCN 45B107. However, as the two campuses are located in the same CBSA, as shown in the “Three Year MGCRB Reclassification Data for FY 2025 Application Year”, this assignment of the “B” was an inadvertent error. The salaries and wages for the Hospital’s 2024 year only were affected and were apportioned as 50% FTEs between the two campuses for that year.

Consequently, the AHW for the “Hospital” (El Paso Healthcare System (CCN 45107) and subcampus (CCN 45B107)) is \$41.3202. The AHW of all hospitals in the CBSA minus the Hospital’s (CCN 45107 and CCN 45B107) wages and hours is \$37.5937. When the \$41.3202 AHW for the Hospital (CCN 45107 and CCN 45B107) is compared to the \$37.5937 AHW of all other hospitals in the CBSA (minus the Hospital’s wages and salaries of CCN 45107 and CCN 45B107), the Hospital’s AHW is 109.91 percent of the AHW of all other hospitals in the area. Thus, the 108 percent threshold is met. In light of the foregoing and based on the record presented

by the Hospital for this reclassification period, the Administrator reverses the MGCRB decision. As the Hospital also met the other necessary criteria, the Hospital qualifies for redesignation to the urban Las Cruces, NM 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 in accordance with the foregoing opinion.

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

Date: April 11, 2024

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Jonathan Blum  
Principal Deputy Administrator  
Centers for Medicare & Medicaid Services