

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

Decision of the Administrator

IN THE CASE OF: *
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Swedish Medical Center – Cherry Hill * **MGCRB Case No. 25C0220**
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Provider No. 50-0025 *
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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 time period specified in 42 C.F.R. § 412.278. 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 primary request to reclassify to Tacoma-Lakewood, Washington (WA) 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) 2025 through 2027. The MGCRB found that the Hospital is already reclassified for a 3-year period and submitted an application for reclassification to the same area for either the second or third year of the 3-year period (MGCRB case number 24C0086).

HOSPITAL’S COMMENTS

The Hospital commented, requesting review by the Administrator. The Hospital stated it had requested reclassification to CBSA Code 45104 – Tacoma – Lakewood, WA for FYs 2005 through 2027, on August 28, 2023, which was denied by the MGCRB. The Hospital clarified that the MGCRB’s decision cited to case number 24C0086 which refers to the application that the Hospital submitted to reclassify to Tacoma – Lakewood, WA for the period spanning FYs 2024 through 2026. The Hospital argued that while the MGCRB approved that application on January 31, 2023, the Hospital, in accordance with 42 C.F.R. §412.273(c)(1)(ii), timely requested to withdraw its application on May 16, 2023. The Hospital maintained that its request to withdraw its approved reclassification under 24C0086 was successful, and the Hospital fell back to its FFY 2023-2025 reclassification to Bremerton, WA (CBSA 14740) under the MGCRB case number 23C0119. Thus, the Hospital maintained that it did not in fact have an existing MGCRB reclassification, is not already reclassified to Tacoma-Lakewood, WA CBSA, and the MGCRB’s decision to deny its current application on the basis that it is already reclassified to Tacoma-Lakewood, WA was in error.

The Hospital acknowledged that the MGCRB denied the FFY 2025 through 2027 reclassification request to Tacoma, WA because it assumed that it was expected to reinstate its previously approved reclassification to Tacoma, WA rather than submit a new application. The Hospital referred to MGCRB Rule 11.6 which states that when a hospital applies to a different area “once the new reclassification becomes effective, a provider may no longer cancel a withdrawal or termination of a prior 3-year reclassification.” The Hospital argued that it understood the MGCRB Rule 11.6 to mean that its previously approved and withdrawn reclassification to Tacoma, WA under MGCRB case number 24C0086 was no longer available for reinstatement as of October 1, 2023 when the Hospital fell back to its previous Bremerton, WA reclassification under MGCRB case number 23C0119 went into effect for FFY 2024.

The Hospital requested that the Administrator reverse the MGCRB’s decision denying the Hospital’s application for reclassification to Tacoma – Lakewood, WA CBSA for FYs 2025 through 2027, as the Hospital’s current, active reclassification to Bremerton, WA does not cause an overlapping request.

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.

As a general matter, the regulation at 42 C.F.R. §412.230(a)(5) (iii) provides that:

Beginning with wage index reclassification applications for FY 2003, if a hospital is already reclassified to a given geographic area for wage index purposes for a 3-year period, and submits an application for reclassification to the same area for either the second or third year of the 3-year period, that application will not be approved.

With respect to a request to cancel a withdrawal and reinstate the wage index, 42 C.F.R. §412.273 states that the “MGCRB allows a hospital, or group of hospitals, *to withdraw its application* or to terminate an already existing 3-year reclassification.”

The regulations further outline the processes that allow for reapplications, cancellations, and withdrawals, as provided below:

(d) Reapplication within the approved 3-year period, cancellations of terminations and withdrawals, and prohibition on overlapping reclassification approvals –

- (1) **Cancellations or terminations or withdrawals.** Subject to the provisions of this section, a hospital (or group of hospitals) may cancel a withdrawal or termination in a subsequent year that request the MGCRB to reinstate the wage index reclassification for the remaining fiscal year(s) of the 3-year period. (Withdrawals may be cancelled only in cases where the MGCRB issued a decision on the geographic reclassification request.)
- (2) **Timing and process of cancellation request.** Cancellation requests must be received in writing by the MGCRB no later than the deadline for submitting reclassification applications for the following fiscal year, as specified in §412.256(a)(2).
- (3) **Reapplications.** A hospital may apply for reclassification to a different area (that is, an area different from the one to which it was originally reclassified for the 3-year period). If the application is approved, the reclassification will be effective for 3 years. Once a 3-year reclassification becomes effective, a hospital may no longer cancel a withdrawal or termination of another 3-year reclassification, regardless of whether the withdrawal or termination request is made within 3 years from the date of the withdrawal or termination.
- (4) **Termination of existing 3-year reclassification.** In the case in which a hospital with an existing 3-year wage index reclassification applies to be reclassified to another area, its existing 3-year reclassification will be termination when a second 3-year wage index reclassification goes into effect for payments for discharge on or after the following October 1.

In reference to the reinstatement of a prior reclassification, the current MGCRB Rule 11.5 and 11.6 published on July 10, 2023 states:

11.5 Cancellations of Withdrawals and Terminations (Reinstatements)

A hospital (or group of hospitals) may cancel a withdrawal or termination in a subsequent year and request the MGCRB to reinstate the wage index reclassification for the remaining fiscal year(s) of the 3-year period. (Withdrawals may be cancelled only in cases where the MGCRB issued a decision on the geographic reclassification request.)

Reinstatement requests must be received by the MGCRB no later than the deadline for submitting reclassification applications for the following fiscal year, as specified in 42 C.F.R. §412.256(a)(2).

11.6 Applications to a Different Area

A provider may apply for reclassification to a different area (that is, an area different from the one to which it was originally reclassified for the 3-year period). If that application is approved, the reclassification will be effective for 3 years. The provider's existing 3-year reclassification will be terminated when a second 3-year wage index reclassification goes into effect for payments for discharges on or after the following October 1. Once the new reclassification becomes effective, a provider may no longer cancel a withdrawal or termination of a prior 3-year reclassification.

In this case the Hospital requested reclassification to Tacoma – Lakewood, WA CBSA No. 45104 for FFYs 2025 through 2027. The Hospital had an approved reclassification for a 3-year period for the same area for either the second or third year of the 3-year period. The Hospital had been reclassified with MGCRB Case No. 24C0086 for FFYs 2024 through 2026 by notice dated January 31, 2023. In accordance with the regulations at 42 C.F.R. §412.273(c)(1)(ii), the Hospital timely requested withdrawal of this classification on May 16, 2023, and was approved. The Hospital then fell back to its FFY 2023 through 2025 reclassification to Bremerton, WA CBSA Code 14740. The Hospital did not request reinstatement of MGCRB Case Number 24C0086. Instead, the Hospital submitted a new reclassification request to the same area for the remaining period of the 3-year period.

CMS has adopted a policy that prohibits overlapping reclassifications and explained in the inpatient prospective payment system final rule for FY 2002, an overlapping reclassification occurs when “a hospital that is reclassified to an area... subsequently applies for reclassification to the same area... for a fiscal year that would be within the 3-year period.”¹

For example, if a hospital is reclassified for purposes of the wage index to Area A for FY 2002, is approved to receive Area A's wage index for 3 years (FY 2002, 2003 and 2004), and reapplies to be reclassified to Area A for FY 2003, 2004, and 2005 (3 years) for purposes of the wage index the hospital would not be permitted to receive area A's wage index for FY 2005 as a result of the reapplication.²

CMS explained that if the hospital wishes to extend the FY 2002 3-year reclassification for fiscal years beyond FY 2004, it would have to apply for reclassification for FY 2005. Moreover, later, CMS noted that “if a hospital applied for reclassification to Area A for purposes of the wage index for FY 2002, but wished to withdraws its application... such a withdrawal, if effective, means that the hospital would not be reclassified to Area A for purposes of the wage index for FY 2002 (and would not receive continued reclassifications for FYs 2003 and 2004), **unless the hospital subsequently cancels its withdrawal.**”³ [Emphasis added].

CMS further clarified this same policy in the August 22, 2007 Federal Register, on reinstating reclassifications. It stated that under the regulations at §412.273(a) “once a withdrawal or

¹ 66 Fed. Reg. at 39887 (August 1, 2001).

² *Id.*

³ *Id.*

termination has been made, the hospital or group of hospitals will not be reclassified for purpose of the wage index to the same area for that year.”⁴ It further noted that “the hospital also will not be reclassified to the withdrawn or terminated reclassification area in the subsequent fiscal years **unless the hospital subsequently cancels its withdrawal or termination.**”⁵ [Emphasis added]. This clarification makes it clear that if a hospital wishes to be reclassified to the withdrawn or terminated reclassification area for the remaining fiscal years, it needed to cancel its withdrawal or termination to prevent overlapping reclassifications from occurring. CMS further clarified that “hospitals are permitted to apply to a **different** area than the previously approved reclassification but, as stated in §412.273(b)(2), once they accept a newly approved reclassification, a previously terminated and reinstated 3-year reclassification would be permanently terminated.”⁶ Thus, until a Hospital applies for a different area, or for FFYs not covered by its initially terminated or withdrawn reclassification, the only way for it to be reclassified in the subsequent fiscal years is for the hospital to cancel its withdrawal or termination. Falling back to its previous reclassified CBSA, after withdrawing a reclassification application, does not constitute a different area. Its reclassification to the Tacoma-Lakewood, WA CBSA for FFYs 2025-2027 was approved and withdrawn. To reinstate this previously approved reclassification, the Hospital would have had to cancel its withdrawal. Only if the Hospital had applied for a different area other than Tacoma – Lakewood, WA would an overlap not have occurred. Contrary to the Hospital’s claims, the policy and procedures are well established and have been successfully followed. Failure to do so in this case was due to the Hospital’s misinterpretation of the process.

After review of the record and the above law, regulations, and published notice, the Administrator finds that the MGCRB properly denied the Hospital’s request for reclassification to CBSA Code 45104 – Tacoma – Lakewood, WA for MGCRB Case No. 25C0220. However, the Administrator agrees to consider that the timely application filing, made concurrent with the timeframe for cancellation requests, should be treated as a request to cancel and reinstate the approval of the designation to 45104 – Tacoma – Lakewood, WA for MGCRB Case No. 24C0086. Therefore, the Administrator reinstates the approval of the designation to 45104 – Tacoma – Lakewood, WA for MGCRB Case No. 24C0086.

⁴ 72 Fed. Reg. at 47333 (August 22, 2007).

⁵ *Id.*

⁶ *Id.* at 47334.

DECISION

The Administrator affirms the MGCRB’s decision for MGCRB Case No. 25C0220 in this case and reinstates the decision of MGCRB Case No. 24C0086.

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

Date: April 19, 2024

/s/

Jonathan Blum
Principal Deputy Administrator
Centers for Medicare & Medicaid Services