

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

Decision of the Administrator

IN THE CASE OF:	*	MGCRB Case No. 25C0453
	*	
Mayo Clinic Hospital Rochester	*	
	*	
Provider No. 24-0010	*	
	*	Date: January 23, 2024
	*	
	*	

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.¹ 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 incorrectly granted the Hospital’s request to reclassify to the urban Rochester, Minnesota (MN) Core-Based Statistical Area (CBSA), CBSA Code 40340, 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 Hospital is geographically located in the urban Rochester, MN CBSA, but is classified as rural under 42 C.F.R. § 412.103 and demonstrated that it also is a rural referral center (RRC) and a sole community hospital (SCH). The Hospital’s original application included a Primary Request for redesignation to CBSA 33460 (Minneapolis-St. Paul-Bloomington, MN-WI).

HOSPITAL’S COMMENTS

The Hospital stated the following as its reclassifications up to the current reclassification period:

- Decision Letter 23C0368 which granted reclassification to CBSA 40340 for FFY23 thru FFY25;
- Decision Letter 24C0369 which granted reclassification to CBSA 33460 for FFY24 thru FFY26;
- Rochester had two approvals for FFY24:
 - Rochester wanted to remain in CBSA 40340, and 24C0369 was withdrawn on 6/15/23 and granted on 6/21/23;

¹ 42 U.S.C. § 1395ww(d).

- Rochester requested CBSA 33460 for FFY25 thru FFY27, and Application 25C0453 was filed.²

The Hospital commented that it believes that the MGCRB incorrectly granted the request to its geographic home CBSA, 40340, rather than the requested closest CBSA outside of its home area of 33460 (Minneapolis-St. Paul-Bloomington, MN-WI).³

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) 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.”

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.

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.

In addition, paragraph (a)(5)(i) provides “Limitations on redesignation”, including that:

² Request for Administrator Review (Jan. 23, 2024).

³ *Id.*

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).

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

(3) *Special rules for sole community hospitals and rural referral centers.* To be redesignated under the special rules in this paragraph, a hospital must be approved as a sole community hospital or a rural referral center as of the date of the MGCRB's review.

(i) A hospital that is approved as a rural referral center or a sole community hospital, or both, does not have to demonstrate a close proximity to the area to which it seeks redesignation.

(ii) If a hospital that is approved as a rural referral center or a sole community hospital, or both, qualifies for urban redesignation, *it is redesignated to the urban area that is closest to the hospital or to the hospital's geographic home area.* If the hospital is closer to another rural area than to any urban area, it may seek redesignation to either the closest rural area or the closest urban area.

(iii) If a sole community hospital or rural referral center loses its special status as a result of redesignation, the hospital is considered to retain its special status for the purpose of applicability of the special rules in paragraph (a)(3) of this section. (Emphasis added.)

Pertinent to this case, the regulation at 42 C.F.R. § 412.230(a)(3) requires that to be redesignated under the special rules in this paragraph, a hospital must be approved as an SCH or an RRC as of the date of the MGCRB's review (except as provided under (iii)). Gaining this status provides the hospital with the opportunity to use the special access rules in lieu of the mileage proximity rules and also exempts a hospital, which was “ever” an RRC, from the 106/108 wage rules in § 412.230(d)(1)(iii).

Under the special rules, a qualified hospital is redesignated to the urban area that is closest to the hospital or to the hospital's geographic home area. Because of changes as a result of litigation on the issue of the treatment of § 412.103 rural status, in the MGCRB process, further clarification

of this criteria was required to provide the option of the “closest” area or a hospital’s geographic area.

The Secretary provided guidance in the April 18, 2017 *Federal Register*, on the special rules for SCH and RRC reclassifications based on the 2016 rules governing reclassification.⁴ Specifically in the preamble, the Secretary explained that:

The existing regulation at § 412.230(a)(3)(ii) states that if an SCH or RRC qualifies for urban redesignation, it is redesignated to the urban area that is closest to the hospital. As currently worded, we believe it is unclear how this provision would apply to a hospital with a § 412.103 rural redesignation *and* SCH or RRC status.⁵ If the urban area that is closest to the hospital is interpreted to mean the hospital's geographic home area, a hospital with a § 412.103 rural redesignation and SCH or RRC status would not be able to reclassify to any closest area outside of the hospital's geographic home area, but would only be allowed to reclassify to the geographic home area. Alternatively, if the urban area that is closest to the hospital is interpreted to mean the closest urban area to the hospital's geographic home area, the hospital would seem to be precluded from reclassifying under the MGCRB to its geographic home area. In other words, under the existing language of this regulation, the urban area that is closest to the hospital can either be interpreted to mean the hospital's geographic home area, or the closest area outside of the hospital's geographic home area.⁶

In addition, the Secretary stated that:

We believe it would be appropriate to revise § 412.230(a)(3)(ii) to clarify that it allows for redesignation to either the hospital's geographic home area or to the closest area outside of the hospital's geographic home area. Prior to the April 21, 2016 interim final rule with comment period (IFC) (81 FR 23428), it was not possible for a hospital with § 412.103 rural redesignation to seek reclassification to its geographic home area or to the closest area outside its geographic home area under the MGCRB because dual reclassification under § 412.103 and under the MGCRB was not permitted. However, the IFC allowed dual § 412.103 and MGCRB reclassifications, so a hospital may now reclassify to a rural area under § 412.103 and then reclassify back to its geographic home area or another area under the MGCRB for wage index purposes (if it meets all criteria). *Thus, depending on the circumstances, a hospital may seek to reclassify to either its geographic home area or the closest area outside of its geographic home area.*⁷ (Emphasis added).

Finally, a hospital must meet certain wage criteria. 42 C.F.R. § 412.230 sets forth the wage criteria which must be met, stating:

⁴ 82 Fed. Reg. 19796, 19908 (Apr. 18, 2017) (referencing the original 2016 rule in 81 Fed. Reg. 23428 (Apr. 21, 2016)).

⁵ Emphasis added.

⁶ 82 Fed. Reg. 19796, 19909.

⁷ *Id.* (emphasis added).

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:

(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:

(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.

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

(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.

The regulation at 42 C.F.R. § 412.230(d)(3) provides that an exception for hospitals that were “ever” an RRC:

(3) *Rural referral center exceptions.* (i) If a hospital was ever approved as a rural referral center, it does not have to demonstrate that it meets the average hourly wage criterion set forth in paragraph (d)(1)(iii) of this section.

(ii) If a hospital was ever approved as a rural referral center, it is required to meet only the criterion that applies to rural hospitals under paragraph (d)(1)(iv) of this section, regardless of its actual location in an urban or rural area.

Pertinent to this case, the Hospital has rural status pursuant to 42 C.F.R. § 412.103, as well as RRC status. Thus, the Hospital may request reclassification to either its geographical home location or the closest urban area outside of its geographical home CBSA using the special access rules. The Hospital also only needs to meet the 82 percent criteria.

In its original application, the Hospital (geographically located in the urban Rochester, MN CBSA) filed a primary request for reclassification for CBSA Code 33460, the Minneapolis-St. Paul-Bloomington, MN-WI CBSA.⁸ The reclassification method to be used was special access – distance, based on the Hospital’s qualifications as an RRC and with §412.103 rural status. The primary request of the Hospital met the criteria of 412.230(a)(3) as the closest CBSA *outside of its home area*. The Hospital also meets all the necessary wage criteria to be reclassified to the requested area. The MGCRB’s decision properly approved the Hospital's application. However, the MGCRB erred in reclassifying the Hospital to the urban Rochester, MN CBSA, CBSA Code 40340, an action which appeared to be a clerical error and is hereby vacated. The Hospital is properly reclassified to its primary requested area CBSA 33460 – Minneapolis-St. Paul-Bloomington, MN-WI.

⁸ MGCRB Application for Case 25C0453 (Aug. 30, 2023).

DECISION

The Administrator amends 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: March 15, 2024

/s/
Jonathan Blum
Principal Deputy Administrator
Centers for Medicare & Medicaid Services