

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

Decision of the Administrator

IN THE CASE OF:	*	MGCRB Case No. 25C0327
	*	
Mercy Medical Center Sioux City	*	
	*	
	*	
Provider No. 16-0153	*	Date: January 23, 2024
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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.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 properly denied the Hospital’s primary request for reclassification. The Hospital, geographically located in the urban Sioux City, Iowa-Nebraska-South Dakota (IA-NE-SD) Core-Based Statistical Area (CBSA) but considered rural under 42 C.F.R. § 412.103, filed a primary application requesting reclassification to the Omaha-Council Bluffs, NE-IA 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 Hospital submitted evidence of its current rural referral center (RRC) status and applied under the special access rules for sole community hospitals and RRCs. The MGCRB found that the primary requested area is not the closest area by distance for redesignation under the special rules for sole community hospitals and rural referral centers in 42 C.F.R. § 412.230(a)(3); rather, the closest area is the urban Sioux Falls, SD CBSA. The MGCRB approved the Hospital’s secondary request to reclassify to the urban Sioux City, IA CBSA (its “home” geographic area) under the proximity rules.

HOSPITAL’S COMMENTS

The Hospital commented, requesting review by the Administrator. The Hospital stated that it has been approved for reclassification to the requested area for the last nine years, beginning with FFY 2016-2018 reclassification period. In each application period, the Hospital was approved for reclassification to the requested area based on the special access rules, which allows for hospitals that are rural referral centers (RRCs) or Sole Community Hospitals (SCHs) to apply for

¹ 42 U.S.C. § 1395ww(d).

redesignation to the closest urban area based on drive time or distance. The Hospital noted that it submitted map evidence with its application showing the shortest route over improved roads to each area, and that it showed the distance to the requested area was shorter. The Hospital included maps from another mapping service with its request to the Administrator also showing that the requested area was closer. The Hospital pointed out that while different mapping services will produce different results, and that the results might be affected by road closures or accidents, it has consistently been able to show through various maps and at various times that the requested area is closer.

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.²

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.

In 1999, ten years after the MGCRB was established, Congress enacted § 401 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Pub. Law 106-113), which established a separate procedure from the MGCRB process whereby urban hospitals can be reclassified from urban to rural status if they meet certain criteria. This provision was set forth at § 1886(d)(8)(E) of the Act and promulgated at 42 C.F.R. § 412.103.

Consistent with the statute, the Medicare regulations at 42 C.F.R. §412.103, provides special treatment for hospitals located in urban areas that apply for reclassification as rural. Hospitals with § 412.103 rural status are eligible to use distance and average hourly wage criteria designated for rural hospitals at § 412.230(b)(1) and (d)(1).

With respect to MGCRB reclassification, the Medicare regulations at 42 C.F.R. § 412.230 *et seq.*, set forth the criteria an individual hospital seeking redesignation to another rural or urban area

² *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 (3rd ed. 1994).

must meet for purposes of using that area's wage index. Except for sole community hospitals and rural referral centers, which have the option of applying under special access rules, an individual hospital must meet the proximity criteria at 42 C.F.R. § 412.230(a)(2), which states:

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 42 C.F.R. § 412.230(a)(3) provides special access rules for sole community hospitals and rural referral centers, stating:

(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 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 or the closest urban area. (Emphasis added.)

The proximity criteria at 42 C.F.R. § 412.230(b) provides that:

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 order to demonstrate proximity, 42 C.F.R. § 412.230(c) requires that a hospital submit appropriate data relating to its proximity to an area. To demonstrate proximity to the area, the hospital must provide evidence of the shortest route over improved roads to the area and the distance of that route.

In this case, the Hospital is geographically located in the urban Sioux City, IA-NE-SD CBSA but considered rural under 42 C.F.R. § 412.103 and is designated as an RRC. The Hospital applied under the special access rules available to RRCs and SCHs. The MGCRB found that the Hospital met all the criteria to be reclassified to the urban Omaha-Council Bluffs, NE-IA CBSA, except that the requested area was not the closest area by distance for redesignation under the special rules

for sole community hospitals and rural referral centers in 42 C.F.R. § 412.230(a)(3). However, the Administrator, using Google Maps, finds that the requested Omaha-Council Bluffs, NE-IA CBSA is closest area.

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, including the wage comparison criteria for redesignation, the Hospital qualifies for redesignation to the urban Omaha-Council Bluffs, NE-IA 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. The MGCRB's decision approving the Hospital's secondary request for reclassification to the Sioux City, IA CBSA is hereby vacated.

DECISION

The Administrator reverses 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 29, 2024

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