

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

Decision of the Administrator

IN THE CASE OF:	*	MGCRB Case No. 25C0598
	*	
Grand View Hospital	*	
	*	
Provider No. 39-0057	*	
	*	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 Trenton-Princeton, New Jersey (NJ) Core-Based Statistical Area (CBSA), CBSA Code 45940, 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 Montgomery County-Bucks County-Chester County, Pennsylvania (PA) CBSA, but is classified as rural under 42 C.F.R. § 412.103.²

The Hospital’s original application included a Primary Request for redesignation to CBSA 45940 (Trenton-Princeton, NJ). At the time of application, the Hospital did not have, nor had it submitted, any documentation indicating that it had been classified as rural by CMS under 42 C.F.R. § 412.103. As such, the MGCRB found that the average hourly wage (AHW) is required to be at least 108.0000 percent of the AHW of all other hospitals in the area in which the Hospital is located; the AHW comparison was calculated by the MGCRB to be 88.2783 percent. The Hospital’s average hourly wage (AHW) is required to be at least 84.0000 percent of the AHW of hospitals in the area to which it seeks redesignation; the Hospital’s AHW comparison was calculated by the MGCRB to be 83.5428 percent. The Hospital’s requested area is required to be no farther than

¹ 42 U.S.C. § 1395ww(d).

² The Hospital received its § 412.103 Rural approval from CMS on December 8, 2023.

15.00 miles under the proximity requirements; the Hospital's distance was measured by the MGCRB to be 27.44 miles.³ As such, the MGCRB denied the Hospital's request for reclassification.

HOSPITAL'S COMMENTS

The Hospital commented, requesting review by the Administrator.⁴ The Hospital stated that it had been approved for special treatment as a rural hospital under the provisions of 42 C.F.R. § 412.103 via letter dated December 8, 2023. Therefore, the Hospital's original application should be considered with respect to the special treatment for rural hospitals outlined in the regulations under 42 C.F.R. § 412.230 including:

- Maximum distance to requested area: 35 miles
- AHW vs Home Area (Rural PA): $\geq 106\%$
- AHW vs Requested Area (45940-Trenton-Princeton, NJ): $\geq 82\%$

The Hospital believes that the MGCRB had the necessary documentation to consider the Hospital's request and erred in its decision.

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.

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. Per the regulation in subsection (a):

³ MGCRB Decision (Jan. 23, 2024).

⁴ Request for Administrator Review (Feb. 5, 2024).

(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.

Relevant to this case, the regulation at 42 C.F.R. § 412.230(a)(5) notes 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.

Except for sole community hospitals (SCHs) and rural referral centers (RRCs), 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(b), which states:

(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.

Regarding the appropriate wage data, the regulation at 42 C.F.R. § 412.230(d)(2) states:

(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.

(1) 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.

(2) Once a hospital has accumulated at least 1 year of wage data in the applicable 3-year average hourly wage period used by the MGCRB, the hospital is eligible to apply for reclassification based on those data.

(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.

In addition, hospitals must meet certain wage criteria at 42 C.F.R. § 412.230(d)(1) supported by wage data that is consistent 42 C.F.R. § 412.230(d)(2)(ii) in order to be redesignated. 42 C.F.R. § 412.230(d) 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:

(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.

The Hospital is geographically located in the urban Montgomery County-Bucks County-Chester County, PA CBSA (33874) and requested to reclassify to the urban Trenton-Princeton, NJ CBSA. The Hospital noted in its application that it was awaiting approval for § 412.103 rural status, which it received on December 8, 2023.⁵ The § 412.103 rural hospital can request reclassification to either its geographical home location or the closest urban area outside of its geographical home CBSA (if it is eligible to use the RRC or SCH special access rules) or may otherwise use the rural hospital proximity mileage.

For the Hospital's primary application, filing as a §412.103 rural hospital, the wage criteria threshold for rural hospitals are applicable, as are the proximity mileage rule for rural hospitals. A Hospital with §412.103 rural status must still meet the 106 percent AHW requirements if it has not "ever" been an RRC. As a rural §412.103 hospital, the AHW is required to be at least 106 percent of the AHW of all other hospitals in the area in which the Hospital is located. The AHW comparison was calculated by the MGCRB to be 88.2783 percent, using the urban home area for its calculations, because the MGCRB considered the Hospital's status as an urban hospital. With its rural §412.103 status, this AHW comparison is calculated to be 107.57 percent of its "rural" home area. Further, the Hospital's AHW, with rural § 412.103 status, is required to be at least 82.0000 percent of the AHW of hospitals in the area to which it seeks redesignation; the Hospital's AHW comparison was calculated by the MGCRB to be 83.5428 percent. Finally, the Hospital's requested area is required to be no farther than 35.00 miles under the proximity requirements as a hospital with rural §412.103 status; the Hospital's distance was measured by the MGCRB to be 27.44 miles.

In light of the foregoing, the Administrator finds that with the § 412.103 rural status, the Hospital satisfies the reclassification requirements to the primary requested area and the primary request for redesignation to CBSA Code 45940-Trenton-Princeton, NJ should be granted. The MGCRB decision is hereby reversed.

⁵ The Hospital asserted that all documents were provided upon which the MGCRB could render its decision based upon the § 412.103 status. The record does not show the rural status being submitted. The Hospital must ensure all documents are submitted timely or risk denial of its application.

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 15, 2024

/s/

Jonathan Blum
Principal Deputy Administrator
Centers for Medicare & Medicaid Services