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Finding Medicare Fee-For-Service (FFS) Payment System Rules: Schedules and Resources

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SUMMARY

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Finding Medicare Fee-For-Service (FFS) Payment System Rules: Schedules and Resources

The Medicare Fee-For-Service (FFS) program pays physicians, hospitals, and other health care facilities based on statutorily established payment systems, most of which are updated annually through regulations. These proposed and final rules follow schedules based on requirements found in statute, regulation, or both.

As Medicare FFS payment system proposed and final rules are issued, they impact payments received by health care facilities and providers. Congressional members and committees may comment, and are often contacted by provider and beneficiary groups. Tracking the status and requirements for specific rules can be onerous, since they have different schedules and web locations.

This report contains information on these payment system rules in a quick reference table. Specifically, the table compiles the payment systems, their main portals on the Centers for Medicare & Medicaid Services (CMS) website, the typical rulemaking schedule, statutory and regulatory requirements, and the most recently issued proposed rules, public comments, final rules, and subsequent corrections. The table also includes embedded links to the applicable resources. Not all payment systems include detailed statutory and regulatory requirements, as noted in the table.

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Introduction

The Medicare Fee-For-Service (FFS) program pays physicians, hospitals, and other health care facilities based on statutorily established payment systems, most of which are updated annually through regulations. These proposed and final rules follow schedules based on requirements found in statute, regulation, or both. Medicare payment systems that follow annual regulatory updates with comment periods include the following:

- Medicare Physician Fee Schedule Payment (MPFS or PFS),
- Hospital Outpatient Prospective Payment System (OPPS),
- Ambulatory Surgical Center Payment System (ASC Payment System),
- Acute Inpatient Prospective Payment System (IPPS),
- Long-Term Care Hospital Prospective Payment System (LTCH PPS),
- Skilled Nursing Facility Prospective Payment System (SNF PPS),
- Inpatient Rehabilitation Facility Prospective Payment System (IRF PPS),
- Inpatient Psychiatric Facility Prospective Payment System (IPF PPS),
- Home Health Prospective Payment System (Home Health PPS),
- End Stage Renal Disease Prospective Payment System (ESRD PPS), and
- Hospice Wage Index and Payment Rate.

As Medicare FFS payment system proposed and final rules are issued, they impact payments received by health care facilities and providers. Congressional Members and committees may comment, and are often contacted by provider and beneficiary groups. Tracking the status and requirements for specific rules can be onerous, because they have different schedules and web locations. This report contains information on these payment system rules in a quick reference table.

To learn more about these payment systems, please see applicable sections of CRS Report R40425, *Medicare Primer*. In addition, the Medicare Payment Advisory Commission (MedPAC) produces Payment Basics,[1] a series of brief overviews of how Medicare's payment systems function.

Medicare Fee-For-Service Payment System Rules: Schedules and Resources

Medicare FFS payment system rules and the associated statutory and regulatory requirements regarding timeline and public comment can be difficult to locate. **Table 1** compiles the payment systems; their main portals on the Centers for Medicare & Medicaid Services (CMS) website; the typical rulemaking schedule; statutory and regulatory requirements; and the most recently issued proposed and final rules, including agency docket numbers, *Federal Register* citations, public comments available on Regulations.gov, and any corrections issued. The table also includes embedded links to the applicable resources and notes when rulemaking timelines and comment periods are not specified. Not all payment systems include detailed statutory and regulatory requirements, as noted in the table.

[1] MedPAC, *Payment Basics*, at http://medpac.gov/-documents-/payment-basics.

Table 1. Medicare Fee-For-Service (FFS) Payment System Rules: Schedules and Resources

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
Payment Policies Under the Physician Fee Schedule Medicare Physician Fee Schedule Payment (PFS)	July-August	November	42 USC §1395w-4: Payment for physicians' services (b)(1) "Before November 1 of the preceding year, for each year beginning with 1998, subject to subsection (p), the Secretary shall establish, by regulation, fee schedules that establish payment amounts for all physicians' services furnished in all fee schedule areas (as defined in subsection (j)(2)) for the year." Note: public comment is not addressed broadly for PFS in statute. However, public comment is addressed for aspects of the physician payment system, such as the development of categories and codes.	N/A	*2021 Final Rule* (12/28/2020) CMS-1734-F 85 FR 84472 Corrections: 86 FR 5020 (1/19/2021) and 86 FR 14690 (3/18/2021) *2021 Proposed Rule* (8/17/2020) CMS-1734-P 85 FR 50074 Comments: Regulations.gov CMS-2020-0088 *2020 Final Rule* (11/15/2019) CMS-1715-F 84 FR 62568 *2020 Proposed Rule* (8/14/2019) CMS-1715-P 84 FR 40482 Comments: Regulations.gov CMS-2019-0111
Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems	July-August	November -December	42 USC §1395l: Payment of benefits (t) Prospective payment system for hospital outpatient department services	42 CFR §419.50 Annual review. 42 CFR §416.130 Publication of revised payment methodologies.	*2021 Final Rule* (12/29/2020) CMS-1736-FC 85 FR 85866

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
Hospital Outpatient Prospective Payment System (OPPS) Ambulatory Surgical Center (ASC) Payment System			Note: specific timelines for rulemaking and comments are not addressed in statute. 42 USC §1395l: Payment of benefits (i) Outpatient surgery "Taking into account the recommendations in the report under section 626(d) of Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the Secretary shall implement a revised payment system for payment of surgical services furnished in ambulatory surgical centers." Note: specific timelines for rulemaking and comments beyond the initial year are not addressed in statute.	"Whenever CMS proposes to revise the payment rate for ASCs, CMS publishes a notice in the Federal Register describing the revision. The notice also explains the basis on which the rates were established. After reviewing public comments, CMS publishes a notice establishing the rates authorized by this section. In setting these rates, CMS may adopt reasonable classifications of facilities and may establish different rates for different types of surgical procedures."	Corrections: 86 FR 11428 (2/25/2021) *2021 Proposed Rule* (8/12/2020) CMS-1736-P 85 FR 48772 Comments: Regulations.gov CMS-2020-0090 *2020 Final Rule* (11/27/2019) CMS-1717-F2 84 FR 65524 *2020 Proposed Rule* (8/9/2019) CMS-1717-P 84 FR 39398 Comments: Regulations.gov CMS-2019-0109
Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System	April-May	August-October	42 USC §1395ww: Payments to hospitals for inpatient hospital services (e)(1)(C)(5) "The Secretary shall cause to have published in the Federal Register, not later than- (A) the	42 CFR §412.8 Publication of schedules for determining prospective payment rates. "(b) Annual publication of schedule for determining prospective payment rates. (1) CMS proposes changes in the methods, amounts, and factors used to determine inpatient prospective payment rates in a Federal Register document published for public	*2022 Proposed Rule* (5/10/2021) CMS-1752-P 86 FR 25070 Comments: Regulations.gov CMS-2021-0070

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
Acute Inpatient Prospective Payment System (IPPS) Long-Term Care Hospital Prospective Payment System (LTCH PPS)			April 1 before each fiscal year (beginning with fiscal year 1986), the Secretary's proposed recommendations under paragraph (4) for that fiscal year for public comment, and (B) the August 1 before such fiscal year after such consideration of public comment on the proposal as is feasible in the time available, the Secretary's final recommendations under such paragraph for that year." 42 USC §1395ww: Payments to hospitals for inpatient hospital services (m) Prospective payment for long-term care hospitals Note: specific timelines for rulemaking and comments for Long-Term Care Hospital PPS are not addressed in statute.	comment not later than the April 1 before the beginning of the Federal fiscal year in which the proposed changes would apply. (2) Except as provided in paragraph (c) of this section, CMS publishes a Federal Register document setting forth final methods, amounts, and factors for determining inpatient prospective payment rates not later than the August 1 before the Federal fiscal year in which the rates would apply." 42 CFR §412.535 Publication of the Federal prospective payment rates. "Except as specified in paragraph (b), CMS publishes information pertaining to the long-term care hospital prospective payment system effective for each annual update in the Federal Register. (c) For the period beginning on or after October 1, 2009, information on the unadjusted Federal payment rates and a description of the methodology and data used to calculate the payment rates are published on or before August 1 prior to the start of the Federal fiscal year which begins October 1, unless for good cause it is published after August 1, but before September 1. (d) Information on the LTC-DRG classification and associated weighting factors is published on or before August 1 prior to the beginning of each Federal fiscal year."	*2021 Final Rule* (9/18/2020) CMS-1735-F 85 FR 58432 Corrections: 85 FR 78748 (12/7/2020) *2021 Proposed Rule* (5/29/2020) CMS-1735-P 85 FR 32460 Comments: Regulations.gov CMS-2020-0052 *2020 Final Rule* (8/16/2019) CMS-1716-F 84 FR 42044 *2020 Proposed Rule* (5/3/2019) CMS-1716-P 84 FR 19158 Corrections: 84 FR 28263 (6/18/2019) Comments: Regulations.gov CMS-2019-0073

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Skilled Nursing Facility Prospective Payment System (SNF PPS)	April-May	August	42 USC §1395yy: Payment to skilled nursing facilities for routine service costs (e)(4)(H) "The Secretary shall provide for publication in the Federal Register, before May 1, 1998 (with respect to fiscal period described in subparagraph (E)(i)) and before the August 1 preceding each succeeding fiscal year (with respect to that succeeding fiscal year), of- (i) the unadjusted Federal per diem rates to be applied to days of covered skilled nursing facility services furnished during the fiscal year, (ii) the case mix classification system to be applied under subparagraph (G)(i) with respect to such services during the fiscal year, and (iii) the factors to be applied in making the area wage adjustment under subparagraph (G)(ii) with respect to such services." Note: the timeline for the proposed rule and comments are not addressed in statute.	42 CFR §413.345 Publication of Federal prospective payment rates. "CMS publishes information pertaining to each update of the Federal payment rates in the Federal Register. This information includes the standardized Federal rates, the resident classification system that provides the basis for case-mix adjustment, and the factors to be applied in making the area wage adjustment. This information is published before May 1 for the fiscal year 1998 and before August 1 for the fiscal years 1999 and after."	*2022 Proposed Rule* (4/15/2021) CMS- 1746-P 86 FR 19954 Comments: Regulations.gov CMS-2021-0062 *2021 Final Rule* (8/5/2020) CMS-1737-F 85 FR 47594 *2021 Proposed Rule* (4/15/2020) CMS-1737-P 85 FR 20914 Comments: Regulations.gov CMS-2020-0036 *2020 Final Rule* (8/7/2019) CMS-1718-F 84 FR 38728 *2020 Proposed Rule* (4/25/2019) CMS-1718-P 84 FR 17620

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
					Comments: Regulations.gov CMS-2019-0070
Inpatient Rehabilitation Facility Prospective Payment System Inpatient Rehabilitation Facility Prospective Payment System (IRF PPS)	April-May	August	42 USC §1395ww: Payments to hospitals for inpatient hospital services (j)(5) "The Secretary shall provide for publication in the Federal Register, on or before August 1 before each fiscal year (beginning with fiscal year 2001), of the classification and weighting factors for case mix groups under paragraph (2) for such fiscal year and a description of the methodology and data used in computing the prospective payment rates under this subsection for that fiscal year." Note: Only the final rule deadline is specified, the proposed rule is not addressed in statute. Public comment is not addressed in statute.	42 CFR §412.628 Publication of the Federal prospective payment rates. "We publish information pertaining to the inpatient rehabilitation facility prospective payment system effective for each fiscal year in the Federal Register. This information includes the unadjusted Federal payment rates, the patient classification system and associated weighting factors, and a description of the methodology and data used to calculate the payment rates. This information is published on or before August 1 prior to the beginning of each fiscal year."	*2022 Proposed Rule* (4/12/2021) CMS-1748-P 86 FR 19086 Comments: Regulations.gov CMS-2021-0057 *2021 Final Rule* (8/10/2020) CMS-1729-F 85 FR 48424 *2021 Proposed Rule* (4/21/2020) CMS-1729-P 85 FR 22065 Comments: Regulations.gov CMS-2020-0039 *2020 Final Rule* (8/8/2019) CMS-1710-F 84 FR 39054 *2020 Proposed Rule* (4/24/2019) 84 FR 17244

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
					Corrections: 84 FR 24734 (5/29/2019) Comments: Regulations.gov CMS-2019-0066
Inpatient Psychiatric Facilities Prospective Payment System Inpatient Psychiatric Facility Prospective Payment System (IPF PPS)	April-May	August	42 USC §1395ww: Payments to hospitals for inpatient hospital services (s) Prospective payment for psychiatric hospitals Note: specific timelines for rulemaking and comments for Inpatient Psychiatric Facility PPS are not addressed in statute. Deadlines for quality measures are specified.	42 CFR §412.428 Publication of changes to the inpatient psychiatric facility prospective payment system. "CMS will issue annually in the Federal Register information pertaining to changes to the inpatient psychiatric facility prospective payment system."	*2022 Proposed Rule* (4/13/2021) CMS-1750-P 86 FR 19480 Comments: Regulations.gov CMS-2021-0060 *2021 Final Rule* (8/4/2020) CMS-1731-F 85 FR 47042 Corrections: 85 FR 52923 (8/27/2020) *2021 Proposed Rule* (4/14/2020) CMS-1731-P 85 FR 20625 Comments: Regulations.gov CMS-2020-0035 *2020 Final Rule* (8/6/2019) CMS-1712-F

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
					84 FR 38424 *2020 Proposed Rule* (4/23/2019) CMS-1712-P 84 FR 16948 Comments: Regulations.gov CMS-2019-0067
Home Health Prospective Payment System Home Health Prospective Payment System (Home Health PPS)	July	November	42 USC §1395fff: Prospective payment for home health services Note: specific timelines for rulemaking and comments for Home Health PPS are not addressed in statute.	42 CFR §484.225 Annual update of the unadjusted national, standardized prospective payment rates. "CMS annually updates the unadjusted national, standardized prospective payment rate on a calendar year basis (in accordance with section 1895(b)(1)(B) of the Act)."[b]	*2021 Final Rule* (11/4/2020) CMS-1730-F 85 FR 70298 *2021 Proposed Rule* (6/30/2020) CMS-1730-P 85 FR 39408 Corrections: 85 FR 43805 (7/20/2020) Comments: Regulations.gov CMS-2020-0077 *2020 Final Rule* (11/8/2019) CMS-1711-FC 84 FR 60478

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
					2020 Proposed Rule (7/18/2019) CMS-1711-P 84 FR 34598 Comments: Regulations.gov CMS-2019-0100
End-Stage Renal Disease Prospective Payment System End Stage Renal Disease Prospective Payment System (ESRD PPS)	July	November	42 USC §1395rr: End stage renal disease program Note: specific timelines for rulemaking and comments for ESRD PPS are not addressed in statute.	42 CFR §413.196 Notification of changes in rate-setting methodologies and payment rates. "(b) Changes in payment rates resulting from incorporation of updated cost data or general revisions of geographic labor cost adjustment factors are announced by notice published in the Federal Register without opportunity for prior comment. Revisions of the rate-setting methodology are published in the Federal Register in accordance with the Department's established rulemaking procedures."	*2021 Final Rule* (11/9/2020) CMS-1732-F 85 FR 71398 *2021 Proposed Rule* (7/13/2020) CMS-1732-P 85 FR 42132 Comments: Regulations.gov CMS-2020-0079 *2020 Final Rule* (11/8/2019) CMS-1713-F 84 FR 60648 *2020 Proposed Rule* (8/6/2019) CMS-1713-P

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
					84 FR 38330 Comments: Regulations.gov CMS-2019-0110
Hospice Wage Index and Payment Rate Hospice Wage Index and Payment Rate	April-May	August	42 USC §1395f: Conditions of and limitations on payment for services (i) Payment for hospice care Note: specific timelines for rulemaking and comments for hospice payment rates are not addressed in statute.	42 CFR §418.306 Annual update of the payment rates and adjustment for area wage differences. "(b) Annual update of the payment rates. The payment rates for routine home care and other services included in hospice care are the payment rates in effect under this paragraph during the previous fiscal year increased by the hospice payment update percentage increase (as defined in sections1814(i)(1)(C) of the Act), applicable to discharges occurring in the fiscal year."[b]	*2022 Proposed Rule* (4/14/2021) CMS-1754-P 86 FR 19700 Comments: Regulations.gov CMS-2021-0061 *2021 Final Rule* (8/4/2020) CMS-1733-F 85 FR 47070 *2021 Proposed Rule* (4/15/2020) CMS-1733-P 85 FR 20949 Comments: Regulations.gov CMS-2020-0037 *2020 Final Rule* (8/6/2019) CMS-1714-F 84 FR 38484

Rule Name	Typically Issued		Requirements: Timeline and Public Comment		
Rule Name and Payment System(s)[a]	**Proposed Rule**	**Final Rule**	**Statutory**	**Regulatory**	**Most Recently Issued Rule(s)**
					2020 Proposed Rule (4/25/2019) CMS-1714-P 84 FR 17570 Comments: Regulations.gov CMS-2019-0068

Source: Compiled by the Congressional Research Service (CRS).

Notes: Table compiled using the Centers for Medicare & Medicaid Services (CMS), *Federal Register*, and Regulations.gov. In some cases, although multiple payment systems are covered by one rule, they are combined here in one row but listed separately. Typical months when proposed and final rules issued can vary, and the months we list are based on CRS analysis of Federal Register publication dates from the past 10 years. Additionally, corrections are sometimes issued after the final rule.

a. Some Medicare FFS payment systems are not updated through notice and comment or on an annual basis, but only periodically. These include Clinical Laboratory Fee Schedule, Shared Savings Program, and Ambulance Fee Schedule. Please see the embedded CMS links for more information, including the most recent rules.

b. At times, regulations reference the Social Security Act rather than the *U.S. Code* citation. The Social Security Administration provides a cross-reference table at https://www.ssa.gov/OP_Home/comp2/G-APP-H.html.

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