

## Comments and Responses to the Proposed 2010 Occupational Mix Survey

### Survey Reporting Period and Submission Deadline

**Comment:** Commenters were supportive of CMS's proposal to use the calendar year, January 1, 2010 through December 31, 2010, as the reporting period for the 2010 survey. The commenters also supported CMS's proposal for a 6-month period after the end of the survey reporting period for hospitals to complete and submit their data to their Medicare intermediaries and administrative contractors. As noted on the survey, this deadline is July 1, 2011. The commenters expressed that this additional time for the completion of the survey would ease hospitals' administrative burden and result in more accurate data and a higher survey response rate. However, one commenter opposed the change to a calendar year reporting period because it does not coincide with the hospital's cost reporting fiscal year. The commenter stated that, since a hospital's occupational mix data are ultimately applied to the hospital's cost report wage data, the previous survey's July 1 through June 30 reporting period was more reasonable for its facilities, allowing for consistent application of wage data and factors. The commenter requested that hospitals be given the choice to use either the calendar year or July 1 through June 30 as reporting periods.

**Response:** We appreciate that commenters generally supported our proposal for a calendar year reporting period for the 2010 occupational mix survey. Although there is public interest in having the data collection period correspond with a cost reporting period, we are unable to accommodate this for the FY 2013 wage index. In order to allow sufficient time for CMS, the Medicare intermediaries and administrative contractors, and the public to compile, review, and correct the data before we calculate the FY 2013 wage index, the 2010 occupational mix survey must be completed and submitted to Medicare fiscal intermediaries and contractors within the proposed 6-month time frame. The proposed July 1, 2011 submission deadline will allow for the 2010 occupational mix survey data to be posted for the public, reviewed, and corrected during the same time frame as the development of the FY 2009 Worksheet S-3 wage data that will be used in calculating the FY 2013 wage index.

Allowing hospitals to report their occupational mix data based on their Medicare cost reporting periods would disadvantage some hospitals in the FY 2013 wage index. For a hospital basing its occupational mix survey on its cost reporting period of July 1, 2010 through June 30, 2010, there would be only 60 days (by September 1), rather than the proposed 6 months, for the hospital to complete its survey in time for the full FY 2013 wage index review and correction process. A hospital having a cost reporting period of October 1, 2010 through September 30, 2011 and an occupational mix survey covering the same time period, if given a 60-day deadline for completing the survey (by December 1), would have significantly less time and opportunities for reviewing and correcting its data. Therefore, in order to provide for the 1-year reporting period, a 6-month completion period, and a thorough review and correction period, we are adopting as final for the 2010 occupational mix survey, a reporting period of January 1 through December 31, 2010, with a submission deadline of July 1, 2011. We will give further consideration to basing the collection period on a hospital's cost reporting period as we develop proposals for future occupational mix surveys.

**Comment:** Commenters sought clarification as to why page 1 of the survey instructions indicates that the survey period encompasses "pay periods beginning on or after January 1, 2010 and on or before December 31, 2010", while the survey form itself specifies that the survey period is "pay periods ending between January 1, 2010 and December 31, 2010". The commenters believe that the latter would be the more appropriate period for the survey.

**Response:** We agree with the commenters and have revised page 1 of the final survey instructions to indicate that the survey reporting or collection period is "from pay periods ending between January 1, 2010 and December 31, 2010".

### **Occupational Categories**

**Comment:** Several commenters recommended that CMS add additional occupational categories to surveys after the 2010 collection. The categories would include, 1) unit secretaries, ward clerks, and other clerical nursing employees whose services are used by hospitals to allow nurses to spend more time performing clinical rather than clerical duties; and 2) "all other nursing" employees whose services do not fit into the current survey's cost centers, but would allow CMS and others to identify additional nursing related occupations (for example, emergency medical technicians, instrument technicians) for future surveys.

**Response:** We will consider these recommendations for expanding the survey's occupational categories as we develop proposals for future updates to the Medicare wage index occupational mix survey.

### **Cost Centers**

**Comment:** Commenters noted that the list of cost centers on page 4 of the survey include line numbers that correspond with the current version of the Medicare cost report, Form 2552-96. However, during the period for which the 2010 occupational mix data are to be collected, many hospitals will be transitioning to the new version of the cost report, Form 2552-10. The commenters recommended that CMS include on the list of cost centers the line numbers for both the current and new versions of the cost report.

**Response:** We agree with the commenters' recommendation and have revised the list of cost centers in the final 2010 occupational mix survey to also include the corresponding line numbers from the new Medicare cost report, Form 2552-10.

### **Addressing Noncompliance**

**Comment:** Some commenters reiterated concerns raised over the past few years in the hospital inpatient prospective payment system (IPPS) proposed and final rules regarding hospitals that do not meet the survey submission requirements. One commenter expressed that the increase in the number of hospitals not submitting the data is disconcerting and discourages others from submitting the survey data in the future. Another commenter suggested that CMS should propose and finalize, in FY 2011 rulemaking, a hospital specific penalty for hospitals that do not comply with submitting the occupational mix survey. A commenter also suggested that,

in situations where a hospital was unable to submit its occupational mix data by the established deadline, CMS should allow hospitals a window of opportunity, during the data correction period, to submit the data so that it can be included in the wage index.

**Response:** We appreciate that commenters share our concerns about the increasing number of hospitals that fail to submit occupational mix data and how this might compromise the accuracy and fairness of the occupational mix adjustment to the wage index. In the FY 2010 proposed and final rules (74 FR 24144 and 74 FR 43832 through 43833), we stated that we would consider the comments we have received from the public in developing a proposal, for the FY 2011 IPPS proposed rule, for a penalty for hospitals that do not participate in the occupational mix survey.

However, we do not agree with the commenter's suggestion that hospitals should be permitted to submit the survey during the wage index data correction period if they failed to meet the established deadline. Allowing late submissions would create a disincentive for hospitals to submit their data timely and would diminish the usefulness of the preliminary October public use files. We believe that the 6-month period after the end of the survey reporting period is a sufficient amount of time for hospitals to complete their survey data. Therefore, for the 2010 occupational mix survey, we will not accept surveys that are submitted after July 1, 2011.

### **Terminated Hospitals**

**Comment:** Several commenters requested that CMS reconsider the proposed date indicated in footnote 1, on page 1 of the survey, pertaining to hospitals that terminated their participation in the Medicare program. The footnote specifies that hospitals which terminated the program before July 1, 2009 are not required to complete the 2010 survey. Commenters recommended that CMS change the date to December 31, 2009 or January 1, 2010, the start of the 2010 survey period, because providers that are no longer participating in the program are less likely to expend the time and resources necessary to properly complete the survey.

**Response:** We agree that the date should be changed to January 1, 2010. Therefore, in the final 2010 occupational mix survey instructions, we have revised footnote 1 to state, "... Also, hospitals that terminated participation in the Medicare program before January 1, 2010 are not required to complete the survey."