Responses to Comments Received
Federal Register Notice on Revised
CMS-265-11 and Instructions

CMS received 3 comments on the Federal Register notice dated April 1, 2011, on the revised changes to the form CMS-265-11. The forms were revised in accordance with the End-Stage Renal Disease Prospective Payment System Final Rule published August 12, 2010 that implemented statutory requirements of the Medicare Improvements for Patients and Providers Act (MIPPA), enacted July 15, 2008. Additionally, the forms were revised to incorporate data previously reported on the Provider Cost Report Reimbursement Questionnaire, Form CMS–339.

Comment on Cost Report Flexibility for New Technology

One commenter noted that the cost report does not allow additional line items for the cost report to capture new drugs and technologies, such as new ESAs for more precise reporting. The commenter indicates that in lieu of this flexibility, it may inappropriately incentivize providers to prescribe existing ESAs simply because of its inclusion in the proposed cost report rather than on sound, clinical judgment and what is best for the Medicare beneficiary.

CMS Response

CMS believes the line provided for ESAs as well as the allocation methodology, will allow the appropriate portion of costs to be allocated to the respective modalities accordingly. Regardless of an old or new drug the method of allocation will be actual charges. The charges for all ESAs will be used by modality to allocate the cost accordingly. CMS acknowledges the commenter's concern; however, is unable to substantiate this change will have a significant impact.

Comment on Cost Allocations

One commenter noted that the cost report continues to force treatment counts and cost allocations in methods that do not result in accurate costs per treatment for home hemodialysis or other home modalities.

CMS Response

CMS acknowledges the commenter's concern; however, the cost reporting forms and instructions only define the recommended bases of allocation of the cost centers. The statistical bases of allocation may be changed if the provider can establish a more accurate allocation bases and receive contractor approval in writing to use a different bases.

Comments on Various Policies Underlying Calculations in the Cost Report

One commenter noted several areas of ESRD and cost report reimbursement policies. The commenter suggested the elimination of reasonable compensation equivalents for Medical Directors, the elimination of related part costs being limited to actual costs, the allowance of non-covered services when prescribed by a physician, the allowance of non-covered items in determining a facilities true costs and applying court rulings on bad debt to all dialysis facilities.

CMS Response

CMS acknowledges the commenter's concerns; however, the comments are beyond the scope of the revised cost reporting forms and instructions. The cost reporting forms and instructions were modified to compute a provider's composite rate costs in order to compute proper reimbursement of ESRD allowable bad debts.