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## **CMS Issues Final Rules Revising Medical Education Payment Policies For Residents Training In Nonhospital Settings**

On May 11, 2007, the Centers for Medicare & Medicaid Services (CMS) published in the Federal Register final rules that make significant changes to Medicare direct graduate medical education (GME) and indirect medical education (IME) payment policies with respect to residents training in sites that are not part of the hospital (nonhospital sites). The rules were published in the same rulemaking notice that contained the final rules for the prospective payment system for long-term care hospitals for rate year 2008.

In order to include residents training in nonhospital settings in the hospital's resident count for GME and IME purposes, the hospital must incur "all or substantially all" of the costs for resident training in the nonhospital setting. CMS noted that the teaching hospital community has expressed concerns about the administrative burden of determining and documenting that hospitals are paying "all or substantially all" of these costs.

CMS stated that effective January 1, 1999, its policy has been that in order to meet the requirement that the hospital pay "all or substantially all" of the costs of training programs in nonhospital settings, the hospital must pay the residents' salaries and fringe benefits, including travel and lodging where applicable, as well as the portion of the cost of teaching physicians' salaries and fringe benefits attributable to supervising residents in the nonhospital setting. This policy will continue in effect for cost reporting periods beginning before July 1, 2007.

However, effective for cost reporting periods beginning on or after July 1, 2007, CMS is revising the definition of "all or substantially all" of the costs to

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require hospitals to incur at least 90 percent of the total of the residents' salaries and fringe benefits, including travel and lodging where applicable, and the portion of the teaching physicians' cost attributable to direct GME activities.

Hospitals will have a choice between two approaches for calculating teaching physicians' costs. Hospitals can choose to use the actual teaching physician's costs that are attributable to direct GME activities. Alternatively, under the new methodology set forth in the final rules, the hospital may use three hours per week as a presumptive standard number of hours that a teaching physician spends in nonpatient care direct GME activities at a particular nonhospital site. The hospital would divide three hours by the number of hours the nonhospital site is open each week. Next, the hospital would multiply this percentage of time spent in nonpatient care direct GME activities by the national average salary of that teaching physician's specialty to calculate the cost of the teaching physician's direct GME time. The national average salaries are to be based on survey data published by the American Medical Group Association (AMGA).

CMS also clarified that the written agreement between the hospital and

the nonhospital site must be in place before the training begins in that nonhospital site. This written agreement should include the amount that represents the total cost of the training program in the nonhospital site, in addition to including the amount that the hospital will incur (at least 90 percent of the cost), and must indicate the portion of the amount that reflects residents' salaries and fringe benefits (and travel and lodging where applicable), and the portion of the amount that reflects teaching physician compensation. The rules also state that the amounts specified in the written agreement may be modified by the end of the applicable academic year – June 30.