

SEC. 5504. COUNTING RESIDENT TIME IN NONPROVIDER SETTINGS.

(a) GME.—Section 1886(h)(4)(E) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(E)) is amended—

(1) by striking “shall be counted and that all the time” and inserting “shall be counted and that—

“(i) effective for cost reporting periods beginning before July 1, 2010, all the time;”;

(2) in clause (i), as inserted by paragraph (1), by striking the period at the end and inserting “; and”;

(3) by inserting after clause (i), as so inserted, the following new clause:

“(ii) effective for cost reporting periods beginning on or after July 1, 2010, all the time so spent by a resident shall be counted towards the determination of full-time equivalency, without regard to the setting in which the activities are performed, if a hospital incurs the costs of the stipends and fringe benefits of the resident during the time the resident spends in that setting. If more than one hospital incurs these costs, either directly or through a third party, such hospitals

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shall count a proportional share of the time, as determined by written agreement between the hospitals, that a resident spends training in that setting.”; and

(4) by adding at the end the following flush sentence:

“Any hospital claiming under this subparagraph for time spent in a nonprovider setting shall maintain and make available to the Secretary records regarding the amount of such time and such amount in comparison with amounts of such time in such base year as the Secretary shall specify.”.

(b) **IME.**—Section 1886(d)(5)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended—

(1) by striking “(iv) Effective for discharges occurring on or after October 1, 1997” and inserting “(iv)(I) Effective for discharges occurring on or after October 1, 1997, and before July 1, 2010”; and

(2) by inserting after clause (I), as inserted by paragraph (1), the following new subparagraph:

“(II) Effective for discharges occurring on or after July 1, 2010, all the time spent by an intern or resident in patient care activities in a nonprovider setting shall be counted towards the determination of full-time equivalency if a hospital incurs the costs of the stipends and fringe benefits of the intern or resident during the time the intern or resident spends in that setting. If more than one hospital incurs these costs, either directly or through a third party, such hospitals shall count a proportional share of the time, as determined by written agreement between the hospitals, that a resident spends training in that setting.”.

(c) **APPLICATION.**—The amendments made by this section shall not be applied in a manner that requires reopening of any settled hospital cost reports as to which there is not a jurisdictionally proper appeal pending as of the date of the enactment of this Act on the issue of payment for indirect costs of medical education under section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) or for direct graduate medical education costs under section 1886(h) of such Act (42 U.S.C. 1395ww(h)).