December 7, 2020

Major Issue Overview of CMS' Final Out-Patient Prospective Payment System and Ambulatory Surgery Center Rule

To: Strategic Health Care Clients

From: David Introcaso, Ph.D., VP, Regulatory Affairs (david.introcaso@shcare.net)

Last Wednesday, December 2, CMS released the agency's 2021 final Out-Patient Prospective Payment System (OPPS) and Ambulatory Surgery Center (ASC) rule. The fact sheet is here and the 1,312 page final rule here.

Here is a brief overview of the final rule's major provisions.

Outpatient Prospective Payment System

Site Neutral Payments

CMS will continue in 2021 to pay clinic visits provided by HOPDs at 40% of the OPPS rate, i.e., CMS will maintain currently policy.

340B Drugs

CMS will maintain current policy of paying ASP minus 22.5% for 340B acquired drugs. The agency withdrew its proposed ASP minus of 28.7%. Concerning the most favored nation (MFN) interim final rule, at least for the first two years of the MFN demonstration, hospitals subject to 340B payment rates will continue to be paid at the 340B rates under the OPPS.

Inpatient Only (IPO) List

CMS is finalizing the agency's proposal to phase out the IPO over a three-year period, or by January 1, 2024. The first list of 298 services (out of a total of 1,740) will be withdrawn from the IPO list beginning January 1, 2021. CMS restates in the final rule that determining the appropriate site of service regarding the 298 services should be based on clinical judgment. Regarding application of the two-midnight rule, CMS will exempt the removed IPO listed services from medical reviews related to the two-midnight rule. (See Table 48 of the final rule regarding the 298 removed services.)

Prior Authorization
CMS is adding two new service categories to the list of outpatient services requiring prior authorization. These are: cervical fusion with disk removal; and, implanted spinal neurostimulators. The five from 2020 are: blepharoplasty; botulinum toxin injections; panniculectomy; rhinoplasty; and, vein ablation. The new total of seven service categories will require prior authorization beginning July 1, 2021.

Radiation Oncology
CMS will delay the start of the RO demonstration six months, or until July 1, 2021. The demo will still conclude December 31, 2025. Quality reporting will not begin until PY2 or CY 2022, i.e., CMS will for PY1 eliminate the 2% quality withhold for professional participants and the model will not meet Advanced APM criteria for PY1. Collection of clinical data will begin January 1, 2022.

Ambulatory Surgical Centers Covered Procedures List
CMS will add total hip arthroplasty and 10 other procedures to the ASC Covered Procedures List (CPL). CMS will also use Alternative 2, that employs a smaller set of criteria, as the agency's approach to identifying procedures to add to the CPL. (See Table 59 and 60 regarding procedures added to the CPL for 2021.)

Hospital Quality Star Ratings
CMS finalized a modified proposal to update Star Ratings methodology. CMS will not finalize the agency's proposal to stratify the readmission measure group by a hospital's proportion dual eligible patients, or to align it with the Hospital Readmissions Reduction Program's policy. CMS will combine three existing measure groups reducing the total number of measure groups to five and simplify the agency's methodology in calculating scores.