April 19, 2022

Executive Summary: 2023 Inpatient Prospective Payment System Proposed CMS Rule

On Monday, April 18th, CMS released the annual IPPS and Long-Term Care Hospitals (LTCH (IPPS) Proposed Rule. In addition to the payment updates, CMS also proposed numerous policy changes. In two pages, this memo highlights major changes included in the nearly 1,800-page regulation.

Click here for the CMS Fact Sheet, and here for the Proposed Rule. Public comments are due June 17, 2022.

Highlights

Payment Updates – CMS proposes to increase IPPS payments by about 3.2 percent, or by $1.6 billion, and to increase LTCH PPS payments by about 0.8 percent, or by approximately $25 million, in FY 2023. Both updates are subject to certain requirements to receive the full amount. Additionally, there is a discussion on the usage of "best available data" to make the payment updates given the potential impact of Covid. CMS is proposing to return to the historical practice of using the most recent available data, including the FY 2021 MedPAR claims and the FY 2020 cost reports, for the FY 2023 rate setting. This includes certain proposed modifications to its rate setting methodologies to account for the anticipated decline in Covid hospitalizations at IPPS hospitals and LTCHs as compared to FY 2021. The American Hospital Association says the payment update is not enough. Click here for the AHA statement.

Graduate Medical Education (GME) Proposals – Given a recent court case coupled with statutory language governing GME, CMS proposes a modified policy would address situations for applying the full time equivalent (FTE) cap when a hospital's weighted FTE count is greater than its FTE cap but would not reduce the weighting factor of residents that are beyond their initial residency period to an amount less than 0.5. Additionally, to provide flexibility to teaching hospitals that cross-train residents, CMS allows teaching hospitals to enter into "Medicare GME affiliation agreements" to share and redistribute those cap slots to accommodate the actual rotations of their residents and includes a provision allowing additional cap slots for urban hospitals that establish "rural training tracks" with rural hospitals (now called Rural Training Programs (RTPs)). CMS is proposing to allow an urban and a rural hospital participating in the same RTP to enter into an "RTP Medicare GME affiliation agreement" effective for the academic year beginning July 1, 2023.

Uncompensated Care Payments – CMS is proposing to distribute roughly $6.5 billion in uncompensated care payments for FY 2023, a decrease of approximately $654 million from FY 2022. This reflects CMS Office of the Actuary's projections that incorporate the estimated impact of the COVID-19 pandemic. Additionally, in response to concerns that the use of only one year of data would lead to significant variations in year-to-year uncompensated care payments, CMS is proposing to use the two most recent years of audited data on uncompensated care costs from Worksheet S-10 of hospitals' FY 2018 and FY 2019 cost reports and since FY 2024 will be the first year that three years of audited data would be available at the time of rulemaking, for FY 2024 and subsequent fiscal years, CMS is proposing to use a three-year average of the uncompensated care data.

Treatment of Section 1115 Demonstrations for Purposes of Disproportionate Share Hospital (DSH) Payments – CMS proposes to revise the regulation governing the calculation of the Medicaid fraction of the Medicare DSH calculation to explicitly reflect the interpretation of the language "regarded as eligible" for Medicaid only includes patients who receive health insurance through a section 1115 demonstration.

Current State of Hospital Assessment on the Impact of Climate Change and Health Equity – CMS is requesting information on how hospitals, nursing homes, hospices, home health agencies, and other providers can better prepare for the harmful impacts of climate change on beneficiaries and consumers, and how the agency can support them in doing so. The agency also wants to support hospitals in reducing emissions.

Establishment of a Publicly-Reported Hospital Designation on Maternity Care – As part of the Administration's maternal health challenge, CMS is proposing to establish a publicly-reported, public-facing hospital designation on the quality and safety of maternity care in Fall 2023. CMS would award this designation to hospitals that report "Yes" to both questions in the Maternal Morbidity Structural Measure, previously finalized for adoption in the Hospital IQR Program. CMS is also soliciting comment on potential names for the designation and additional potential data sources for CMS to consider in the future for purposes of awarding this designation as well as comments on ways to explore how CMS can address the U.S. maternal health crisis through policies and programs. Click here for specific details from CMS.

Social Determinants of Health Comment Solicitation – CMS is asking for comments on how reporting on SDOH, like income or place of residence, can advance health equity efforts. Specifically, the agency would like comments on how the reporting of SDOH diagnosis codes may improve its ability to recognize severity of illness, complexity of service, and/or utilization of resources under the MS-DRGs. CMS would also like feedback on how to properly document in the diagnosis codes social and economic circumstances to accurately reflect each health care encounter and improve the reliability and validity of the coded data including ways to advance health equity.

Payment Adjustment for Domestically Made Surgical N95 Respirators Comment Solicitation – Due to the international supply issues that came about during the pandemic, CMS is looking for ways to increase domestic production and usage of U.S.-made N95 respirators. To that end, CMS recognizes that hospitals may incur additional costs when purchasing wholly domestically produced N95 respirators and is seeking comment on the appropriateness of payment adjustments that would account for any such additional costs and is considering a higher payment for 2023 and potentially subsequent years.

Measure Suppression or Refinement Policies in Response to COVID-19 PHE in Certain Value-Based Purchasing Programs – CMS is proposing to suppress or refine several measures in the Hospital Readmissions Reduction Program (HRRP), Hospital-Acquired Condition (HAC) Reduction Program, and Hospital Value-Based Purchasing (VBP) Program to ensure that these programs do not reward or penalize hospitals based on circumstances caused by the PHE for COVID-19.

Proposed Revision to Conditions of Participation (CoP) for Hospitals and CAHs To Report Data Elements for COVID-19, Seasonal Influenza, and Future Pandemics and Epidemics as Determined by the Secretary – CMS proposes to revise the hospital and CAH infection prevention and control CoP requirements that would require hospitals and CAHs, after the conclusion of the current public health emergency (PHE), to continue Covid and seasonal influenza reporting to apply upon conclusion of the PHE and continue until April 30, 2024, unless the Secretary establishes an earlier ending date. Additionally, the agency proposes to establish reporting requirements for future PHEs related to epidemics and pandemics by requiring hospitals and CAHs to electronically report information on acute respiratory illness, SARS-CoV-2/COVID-19, and other viral and bacterial pathogens or infectious diseases of pandemic or epidemic potential only when the Secretary has declared a PHE.

Medicare Severity Diagnosis Related Groups. CMS proposed adding zero new MS-DRGs, keeping the number of MS-DRGs at 767 for fiscal year 2023.