

Watchdog Group Flags CMS Data Suppression In Proposed Hospital Rule

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A nonprofit watchdog organization is ramping up pressure on CMS to keep publicly available several data measures on hospital-acquired conditions -- which affect the CMS' Hospital-Acquired Condition Reduction Program, Hospital Readmissions Reduction Program, hospital compare tool and the advanced Bundled Payments for Care Improvement initiative -- after the agency [announced in its hospital inpatient prospective payment proposed rule](#) that it was considering suppressing the data because the information was skewed by COVID-19 admissions.

The Leapfrog Group notes over 25,000 people died in 2021 from hospital acquired conditions, including deep tissue advanced bedsores, postoperative sepsis, wound splitting and respiratory failure, according to data from the Agency for Healthcare Research and Quality. A total of 96,000 patients were affected last year, Leapfrog says.

Leapfrog says the data on these complications will no longer be used to calculate CMS' Patient Safety and Adverse Events Composite, which is usually referred to as PSI-90. CMS took PSI-90 out of the Hospital Value-Based Purchasing Program between fiscal 2019 and fiscal 2022, according to a CMS fact sheet on PSI-90, and will begin using an updated version in fiscal 2023. During a June 2 Leapfrog webinar on data suppression, Bill Kramer, the Purchaser Business Group on Health's executive director for health policy, said that some stakeholders are concerned the change could be permanent.

"COVID is not going away and COVID is the basis of the rationale CMS is using, that they believe has caused what CMS has described as, quote, 'bias,' or 'flawed risk adjustment,' for COVID patients," Kramer said. "The COVID problem has not ended -- it's ongoing, and I can imagine that there will be some who will advocate for either suppressing this data all together or removing COVID patients from the calculations for a longer period of time, so this is not a one-and-done issue."

In a statement to the press, Leah Binder, president and CEO of The Leapfrog Group, said that CMS and the Centers for Disease Control and Prevention reported that the number of hospital-acquired complications had increased significantly since 2020. Binder urged concerned stakeholders to submit comment letters and sign onto Leapfrog's letter to CMS opposing data suppression before the proposed rule's comment period closes on June 17.

"Just two months ago, leaders at CMS and the Centers for Disease Control and Prevention (CDC) reported that since 2020, federal data shows a significant increase in the number of common hospital infections and patient safety mistakes occurring during the pandemic," Binder says in her letter. "These federal officials have the data, but now want to suppress much of it from the American public."

Binder also cites a May 2022 HHS Office of Inspector General report, which found that a quarter of Medicare patients surveyed experienced harm in hospitals. In that report, OIG recommends that CMS update its lists of hospital-acquired conditions to include more common, preventable and high-cost complications. The report also recommends CMS expand its use of patient safety metrics in pilots and demos for health care payment and service delivery.

CMS [says in its fiscal 2023 hospital inpatient pay proposed rule](#) that the impact of the COVID-19 public health emergency has affected the quality of the data on hospital-acquired conditions, which is why it has elected to suppress these measures in fiscal 2023. The agency says in a fact sheet on the proposed rule that it would pull PSI-90, as well as all five measures of the National Healthcare Safety Network's healthcare-associated infections, out of the calculation of VBP scores and out of hospitals' total HAC score.

"If finalized as proposed, for the FY 2023 program year, hospitals participating in the HAC Reduction Program will not be given a measure score, a Total HAC score, nor will hospitals receive a payment penalty," CMS' fact sheet on the proposed rule says.

In non-pandemic years, CMS penalizes the lowest-performing quarter of all hospitals each year by withholding 1% of their Medicare hospital payments. For fiscal 2023, CMS says it is proposing a special value-based payment scoring methodology that avoids financially penalizing hospitals for the year.

"For these measures, as with all our quality measures, CMS continues to closely monitor performance to ensure safety, and we will continue to share that data with the public," said a spokesperson for CMS. "We haven't stopped data collection on these measures and are not proposing to do so in the IPPS proposed rule. The proposed policies are intended to ensure that these programs do not reward or penalize hospitals based on circumstances caused by the PHE for COVID-19 that the measures were not designed to address."

Lee Fleisher, CMS' chief medical officer and director of the Center for Clinical Standards and Quality, told *Inside Health Policy* in an email that the agency's decision was based on the integrity of data collected during the pandemic.

"Throughout the COVID-19 Public Health Emergency (PHE), CMS' top priority has been ensuring access to safe, comprehensive health care, and patient safety will always be our primary concern," Fleisher said. "An important part of CMS' commitment to patient safety is ensuring public access to the highest quality data regarding the performance of health care facilities: We want the public to have complete trust in the data and will only be providing data we have determined has a high confidence of credibility and accuracy."

CMS' spokesperson said in an email that the PHE has significantly affected the measures in the program and the resulting quality scores. Because inconsistent rates of COVID-19 across the country have affected different regions at different times, "[a]nalyzes with available data for the applicable measures show significant differences from pre-pandemic performance," the spokesperson said.

CMS' spokesperson said that "safety, transparency and quality of care of patients is not enhanced by the use of skewed or inaccurate data, and, in fact, could result in negative impacts on patients." CMS' decision to suppress data does not contradict its commitment to transparency and patient safety, the spokesperson said.

The spokesperson added that external factors -- including changes to clinical practices to accommodate safety protocols for medical personnel and patients, changes in the number of patient stays and facility-level cases -- have all been affected by the pandemic, which in turn affects the quality data.

Akin Demehin, senior director of policy at the American Hospital Association, said AHA agrees with CMS' decision to suppress some of the measures, given the agency's analysis indicating how distorted the data have become during the pandemic. Demehin said that it would be unfair to base hospital incentives and penalties on skewed data, but added that hospitals should still be reporting their data -- which is still required, though it will not factor into their scores -- despite the reprieve from penalties.

"Several vital components of the [PSI-90] measure -- including individual measure weights and parts of the risk and reliability adjustment models -- were set using pre-pandemic data that do not account for the pandemic's impact," Demehin says in an email. "As a result, any reported measure results likely would be unfairly biased against hospitals highly impacted by the pandemic, and would result in misleading data for the public." -- *Bridget Early* (bearly@iwpnews.com)