

HALL RENDER'S THIS WEEK IN WASHINGTON - APRIL 22, 2016

CMS RELEASES IPPS AND LTCH PROPOSED PAYMENT RULE THAT ENDS NEGATIVE PAYMENT IMPACT FROM TWO-MIDNIGHT POLICY

On April 18, CMS **issued** its proposed payment rule covering inpatient hospital stays and long-term acute care hospitals. The inpatient hospital measure would increase rates by 0.85 percent in FY 2017, compared to FY 2016, after accounting for inflation and adjustments.

The proposal would permanently remove the negative payment impact from the prior Two-Midnight Rule payment adjustment. CMS will account for the rule's 0.2 percent reduction to hospitals' payment rates for the current and past two fiscal years by increasing FY 2017 payment rates to 0.6 percent. CMS also proposed that hospitals give Medicare enrollees special notice if they have been receiving services under outpatient observation status for over 24 hours. Hospitals must disclose to Medicare beneficiaries the potential implications and costs associated with being considered an outpatient and receive a signature of acknowledgement from the patient or his/her representative.

CMS also proposed that hospitals meeting the requirements of the Hospital Inpatient Quality Reporting Program and the electronic health records meaningful use criteria will receive a 0.9 percent increase in operating payments. Hospitals that do not participate in the two programs may face payment cuts. CMS will accept comments on the proposed rule through June 16 and expects to release a final rule by August 1, 2016.

In the same **release**, CMS also issued its proposed payment rule for all long-term care hospitals ("LTCHs") for FY 2017. The rule proposes a 2.7 percent market basket update, a 0.5 percent cut for productivity and an additional 0.75 percent cut as mandated by the ACA.

ENERGY AND COMMERCE SUBCOMMITTEE HOSTS HEARING ON MACRA IMPLEMENTATION

On April 19, the House Energy and Commerce Subcommittee on Health held a **hearing** to examine physician efforts to prepare for Medicare payment reforms under the Medicare Access and CHIP Reauthorization Act ("MACRA") of 2015. CMS has begun the rule-making process regarding MACRA, which changed how physicians are paid under Medicare by repealing the sustainable growth rate formula. At the hearing, subcommittee members questioned provider groups on how they are preparing their physicians to implement the MACRA reforms.

At the hearing the American Medical Association recommended CMS broaden alternative payment models ("APMs"), consolidate provider performance reporting and improve its methods of measurement. The American College of Physicians recommended that CMS reduce the burdens associated with the agency's reporting requirements, establish a learning health system and ensure that the MACRA reforms are patient-centered.

CMS intends to use MACRA reforms to shift away from the current fee-for-service model and streamline reimbursement through merit-based incentive payment system and APMs in an effort to tie physician payments to the quality of care provided. Health Subcommittee Chairman Joe Pitts (R-PA) said the panel will closely monitor how the agency implements MACRA and will host future hearings on the law.

CMS DELAYS RELEASE OF NEW HOSPITAL STAR RATINGS

On April 20, CMS announced they will postpone the release of its hospital star rating system, which is designed to rank hospitals based on their quality of care and patient experience. Following pressure from Congress and industry groups to delay star ratings, CMS will now release the hospital data to the public in July. The agency will also push back the July 2016 Hospital Compare data preview period, during which hospitals can review their ratings before they are publicized, to May 6.

The star ratings include 11 quality measures from the Hospital Consumer Assessment of Healthcare Providers and Systems survey, including patient satisfaction with the responsiveness of hospital staff, hospital comfort and cleanliness, transition of care and communication. CMS will host a call with hospitals and providers on May 12 to assist them with interpreting the star ratings data and explain the methodology in detail.

CMS ISSUES PROPOSED RULES FOR MEDICARE FACILITY PAYMENT RATES FOR FY 2017

On April 21, CMS released Medicare proposed rules for **skilled nursing facilities** ("SNFs"), **hospice providers** and **inpatient rehabilitation facilities** ("IRFs") for fiscal year 2017. The proposals would update Medicare payment rates and wage indexes for facilities serving Medicare

beneficiaries.

The SNF proposed rule would increase net payments to facilities by \$800 million, or 2.1 percent, from 2016 payment rates to account for the Affordable Care Act's ("ACA") 2.6 percent market-basket update and 0.5 percent productivity reduction. Hospice payments would increase by \$330 million, or 2.0 percent, from 2016 due to the 2.8 percent market-basket update and 0.5 percent reductions for productivity and a further 0.3 percent as mandated by the ACA. Additionally, the hospice cap for fiscal year 2017 would be increased by 2.0 percent.

IRFs would receive a 1.6 percent, or \$125 million, increase in net payments, including a 2.7 percent market basket, 0.5 percent productivity cut, an additional ACA-required cut of 0.75 percent, and a 0.2 percent increase for high-cost outlier cases. CMS also introduced new measures for the SNF, hospice and SNF quality reporting programs and proposed a value-based purchasing program for SNFs. The agency will accept public comment on the proposed rules through June 20.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Renee Elmers (R-NC) introduced a bill that would continue the use of a three-month quarter EHR reporting period for health care providers to demonstrate meaningful use for 2016 under Medicare and Medicaid EHR incentive programs.

Rep. Charles Boustany (R-LA) **introduced** a bill that would amend Titles XVIII and XIX of the Social Security Act to address any lag in the Food and Drug Administration's ("FDA") approval-to-insurance coverage process. The bill (H.R. 5009) allows for a three-year automatic coverage of new medical technologies through the present Medicare New Technologies Add-on Payment process, following FDA approval. Once the three-year coverage has ended, the technology would then be re-evaluated by Medicare for permanent approval and would gain coverage by the private insurance industry.

Rep. Larry Bucshon (R-IN) introduced a bill (H.R. 4959) that would direct the HHS Secretary to conduct a study on the designation of surgical health professional shortage areas.

NEXT WEEK IN WASHINGTON

The House and Senate reconvene at 3 PM on Monday, April 25, for another full week of legislative activity. Senate appropriators are preparing a supplemental appropriations package to address the Zika virus that will be offered alongside a spending bill on the floor. The emergency funding package has been in negotiations for months. On April 28, the Senate Finance Committee will hold a hearing on mental health care.

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