



WISCONSIN HOSPITAL ASSOCIATION, INC.

Summary of Proposed Rule

for

Medicare Prospective Payment System

for

Inpatient Rehabilitation Facilities

Federal Fiscal Year 2004

May 29, 2003

OVERVIEW OF PROPOSED RULE—IRF PROSPECTIVE PAYMENT SYSTEM

On May 16, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule updating the Medicare payment rates under the Inpatient Rehabilitation Facility Prospective Payment System (IRF PPS) for federal fiscal year (FFY) 2004. The rate update in this proposed rule is effective for services beginning on October 1, 2003. CMS estimates the impact resulting from the provisions in the notice to be a 3.3% increase in payments across the nation. In the East North Central States, which include Wisconsin, CMS estimates urban provider payment rates would increase 2.7% while rural providers would see a 2.8% increase in payment rates. The differences are primarily due to wage indexes.

Comments

The proposed rule provides for a 60-day comment period. CMS must receive comments by 5 p.m. on July 7. One original and two copies may be mailed to:

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1474-P
P.O. Box 8010
Baltimore, MD 21244-8010

Alternatively, comments (one original and two copies) may be hand delivered to CMS at:

Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

OR

Room C5-14-03
7500 Security Boulevard
Baltimore, MD 21244-1850

PPS RATE PAYMENT CALCULATION

Marketbasket Update

CMS uses the excluded hospital marketbasket in determining an annual rate update for the IRF PPS. CMS plans to revise the inpatient rehabilitation marketbasket and rebase it from 1992 to 1997. As a result, the marketbasket increase for FFY 2004 is 3.3%.

IRF Wage Index

The IRF PPS wage index adjustment is based on acute care hospital wage data. CMS plans to update the IRF wage index by updating the source data used to compute the wage index from 1997 to 1999. Since the law requires any update to the IRF wage index to be budget-neutral, a budget neutrality factor of .9954 will be applied in determining the FFY 2004 national PPS rate. In addition, the update to the wage index results in a labor-related portion of the rate of 72.683%. CMS is specifically soliciting comments on ways to refine or adjust the current IRF wage index.

National IRF PPS Rate

The national IRF PPS rate for FFY 2003 was \$12,193. After applying the marketbasket increase of 3.3% and the budget neutrality factor of .9954, the resulting FFY 2004 national rate is \$12,537. This rate is applied to the appropriate Case Mix Group (CMG) weight based on a CMG classification resulting from a clinical assessment of the patient.

Rate Adjustments

In addition to the wage index adjustment, the proposed rule contains two other facility level adjustments: the low-income patient adjustment (LIP) and the rural facility adjustment. The methodology for calculating the LIP remains unchanged from the prior year and the rural adjustment of 19.14% remains unchanged.

The proposed rule includes three case-level adjustments. The first two adjustments—the transfer adjustment methodology and the interrupted stay methodology—would remain unchanged from the prior year. However, CMS proposes changes to the cost outlier adjustment.

While the cost outlier threshold of \$11,211 would continue, the proposed rule contains changes to the cost outlier adjustment computation methodology. The facility cost-to-charge ratio is an integral part of the cost outlier calculation. It is used to estimate the cost of a particular case. Currently, CMS uses the cost-to-charge ratio from the most recent **settled** IRF Medicare cost report. CMS proposes to use the cost-to-charge ratio from the latter of the most recently settled Medicare IRF cost report or the most recently **tentatively settled** IRF Medicare cost report.

In addition, CMS proposes to apply a ceiling in determining a facility's cost-to-charge ratio. CMS proposes two national ceilings: one for urban hospitals and one for rural hospitals. In determining the ceilings, CMS proposes to compute the standard deviation of both the urban and rural IRF cost-to-charge ratios and multiply each of these amounts by three. These amounts would be added to the respective national cost-to-charge ratio for both urban and rural IRFs and would represent the ceiling. CMS plans to update the ceilings on a yearly basis.

Under the proposed rule, there would be no cost-to-charge ratio floor. In the case that a facility has a cost-to-charge ratio below that of the national average, CMS would use the facility's actual cost-to-charge ratio.

CMS proposes to enact a retroactive adjustment process with regard to the cost outlier adjustment that mirrors that of the hospital inpatient PPS.

OTHER IRF PPS PROPOSED CHANGES

Eliminate IRF Bed Size Limits

Currently, CMS limits the bed size of a satellite IRF, whether it is freestanding or a unit of a hospital. CMS originally implemented this to avoid providers' circumvention of the PPS at a time when the PPS was not fully implemented. Since the PPS is now fully implemented and all IRFs will be paid 100% of the proposed FFY 2004 PPS rates, CMS feels this provision is no longer necessary and is proposing to eliminate the bed size limit of both freestanding satellite IRFs and hospital unit IRFs.

Empower Medicare Fiscal Intermediaries as Regulatory Enforcers

IRFs must meet several regulatory requirements and conditions of payment under the IRF PPS. These conditions include completion of a Patient Assessment Instrument (PAI), appropriate recordkeeping and cost reporting requirements, and the delivery of appropriate clinical services. CMS proposes to add language that grants to Medicare fiscal intermediaries the same authority as CMS to determine a facility's compliance with these conditions and then to unilaterally either withhold or reduce their Medicare payments or reclassify the IRF as an inpatient hospital.

Enforce the Current 75% Rule

The “75% rule” is one regulatory criterion CMS uses to designate an IRF. This rule states that during its most recent 12-month cost-reporting period, a provider must show that it served an inpatient population that required intensive rehabilitation services and that at least 75% of those inpatients must have received rehabilitation for one or more of ten conditions specified in regulations. CMS states that it will actively enforce the current 75% rule beginning with cost reporting periods on or after October 1, 2003.

The ten conditions in the 75% rule have not been changed since 1984 and CMS proposes no changes to the 75% rule in this proposal. CMS estimates that as many as 86% of IRFs may currently be out of compliance with this rule and predicts that IRFs will redirect future admissions to other care settings for rehabilitation to achieve compliance. In the proposed rule, CMS offers a specific patient case study to illustrate the Medicare cost comparisons for a patient receiving rehabilitation in an IRF versus other settings. CMS invites public comment on this issue.

Relative Weights of Case Mix Groups

The relative weights for the CMGs will remain the same as in the previous year. CMS has contracted with the RAND Corporation to lead efforts to refine the case mix classification system to improve the accuracy of PPS payments.

Specify Patient Privacy Rights Notification Documents

Under the Privacy Act of 1974, patients are entitled to know under what authority and for what purpose individual identifiable information is collected by a federal agency and maintained in a system of records. In its proposed rule, CMS proposes to require that IRF clinicians give two specific forms about privacy notification to patients before performing an IRF PAI. While these forms both contain the same information, one form, titled, *Data Collection Information Summary for Patients in Inpatient Rehabilitation Facilities*, is written in plain language and the other, *Privacy Act Statement—Health Care Records*, is written in technical language.

Clarify the PAI Completion Date

CMS is concerned that, due to misinterpretations of current instructions, IRFs have confined PAI completions to the day after the assessment reference date (ARD). Therefore, CMS proposes language that specifies that PAIs should be completed **by** the day after the ARD, but not necessarily **on** the day after the ARD.

Make Transmission of PAI Data Optional for Some Part A Stays

CMS wishes to decrease the burden of PAI data transmission for IRFs when Medicare is not paying for a beneficiary’s Part A stay. CMS proposes to add language that permits the IRF to choose when not to transmit PAI data based on this condition.

Modify the Definition of an IRF Discharge

CMS believes the current definition of discharge from an IRF has caused inconsistencies with IRF staff determining the discharge date. CMS proposes to define an IRF discharge simply as one where the patient is formally released from the IRF or dies in the IRF.

Create a Waiver of Penalty for Late PAI Data Transmissions

Currently, the penalty for late transmission of PAI data is a 25% deduction in the CMG payment associated with each late PAI transmitted. CMS understands that there may be extraordinary circumstances beyond an IRF's control that may cause a facility to transmit PAI data late. CMS proposes criteria that would identify those extraordinary circumstances and permit the current penalty to be waived if the IRF meets certain conditions.

NEXT STEPS

WHA is reviewing the proposed rule in detail. We welcome some of CMS' proposed changes as clarifications to confusing language and reductions to providers' burden with unnecessary regulations. However, we see other proposals increasing regulatory burdens to providers, putting providers at increased financial risk, and limiting rehabilitation services to patients that are medically necessary and clinically appropriate.

WHA is seeking your input as to the potential impacts these changes may have on your facility and the patients you serve. We will develop formal comments to the proposed changes based on this input.