



WISCONSIN HOSPITAL ASSOCIATION, INC.

## **Summary of Proposed Rule**

**for**

# **Medicare Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities**

## **Federal Fiscal Year 2004 Update**

**May 16, 2003**

## OVERVIEW OF CHANGES—SNF PROSPECTIVE PAYMENT SYSTEM

On May 16, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule updating the Skilled Nursing Facility Prospective Payment System (SNF PPS) and consolidated billing provisions. The proposed rule updates the per diem payment rates under the SNF PPS for federal fiscal year (FFY) 2004, which will be effective for services beginning on October 1, 2003. CMS estimates the financial impact resulting from the provisions in the notice to be an increase in payments of \$400 million or 2.9% across the nation. This is solely attributable to the 2.9% marketbasket based update to the unadjusted federal rates from the prior year. Because of this, the impact is the same for every nursing home regardless of its region, ownership type, or urban/rural designation.

CMS proposes other changes to SNF PPS-related items that include adding criteria to designate a SNF as a “distinct part” of a hospital or other entity and is asking for public comment on services to be added to the consolidated billing exclusions list. CMS also continues the administrative presumption of Medicare coverage for any beneficiary correctly assigned to one of the upper 26 Resource Utilization Group (RUG) III groups as a result of the completion of the initial five-day Minimum Data Set (MDS).

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 can be mailed to:

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1469-P  
P.O. Box 8013  
Baltimore, MD 21244-8013

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

Hubert H. Humphrey Building  
Room 443-G  
200 Independence Avenue, S.W.  
Washington, DC 20201

OR

Room C5-14-03  
7500 Security Boulevard  
Baltimore, MD 21244-8013

## PPS RATE PAYMENT CALCULATION

### Marketbasket Update

The update to this year’s unadjusted federal rates is 2.9%, which represents the full marketbasket increase.

### Rate Component Add-Ons

The Balanced Budget Refinement Act (BBRA) of 1999 and the Benefits Improvement and Protection Act (BIPA) of 2000 each included provisions to increase the SNF PPS rates that continue in FFY 2004. The two add-ons that are continued are:

- the BBRA-mandated and subsequently BIPA 2000 revised 20% add-on to the case mix-adjusted rate for the 12 specified RUGs found in the Extensive Services, Special Care, and Clinically Complex categories; and

- the BIPA-mandated 6.7% add-on to the case mix-adjusted federal per diem rate for all 14 rehabilitation RUGs.

These two add-ons will remain in effect until the latter of October 1, 2000 or implementation of a refined case mix classification system. CMS' research into the refinement of the case mix classification system is ongoing. CMS is charged with reporting to Congress on those research results by January 1, 2005.

The unadjusted federal rates are as follows:

**Unadjusted Federal Rates**

Area	Nursing Case Mix	Therapy Case Mix	Therapy Non-Case Mix	Non-Case Mix
Urban	\$125.15	\$94.27	\$12.42	\$63.87
Rural	\$119.57	\$108.70	\$13.26	\$65.06
<i>All components reflect the 2.9% marketbasket adjustment.</i>				

**Calculation of Payment Amount**

The following table provides an example of the computation of an adjusted PPS rate for a SNF in the Albany area.

RUG Group	Labor Portion	Wage Index	Adjusted Labor	Non-Labor Portion	Adjusted Rate	Percent Adjustment	Adjusted Amount	Medicare Days	Payment
Rehabilitation Very High Category (RVC)	258.52	0.8384	216.74	79.70	296.44	6.7%*	316.30	30	\$9,489
Services Special Category (SSC)	166.41	0.8384	139.52	51.30	190.82	20%**	228.98	30	\$6,870
<b>TOTAL</b>									\$16,359
* Represents add-on to the rehabilitation RUGs as mandated by BIPA.									
** Represents add-on for 12 specific RUG-III levels as mandated by Section 101 of the BBRA.									

**SNF Wage Index**

CMS has decided to use the FFY 2003 wage index to adjust SNF PPS payments for FFY 2004. By doing this, CMS intends to establish a precedent in which it will use the wage index based on the most recently published final hospital wage index data. In this case, it is the FFY 2003 wage index. In the past, the wage index that CMS used was not the published final version. By using the final published version, CMS will conform to other post-acute systems such as home health agencies and inpatient rehabilitation hospitals. In addition, in the past, pre-finalized wage index versions have been subject to mid-year revisions that have affected the accuracy of CMS PPS rates. In this case, the FFY 2003 hospital wage index (pre-reclassified, pre-rural floor) will reflect

corrections made since the publication of the FFY 2003 SNF update notice. In addition, for FFY 2003, the labor-related portion of the federal rate is 76.435%.

## **SWING BED FACILITIES**

In FFY 2004, the PPS transition period ends. Therefore, the SNF PPS will apply to all swing bed services delivered in non-Critical Access Hospitals.

## **OTHER PROPOSED ITEMS**

### **Presumption of Coverage for SNF Level of Care**

In this proposed rule, CMS continues the administrative presumption of coverage for a SNF level of care. This presumption is based on a beneficiary's correct assignment into one of the upper 26 RUG III categories based on completion of the initial five-day Medicare required MDS assessment. This circumstance automatically classifies the beneficiary as meeting the SNF level of care definition up to the assessment reference date (ARD) of that MDS. For days of stay beyond the five-day assessment's ARD, traditional Medicare eligibility and coverage rules apply.

### **Changes to Consolidated Billing Exclusions List**

CMS is seeking comments for suggested additions to this list of excluded services. The Social Security Act grants authority to the Health and Human Services Secretary to designate additional services be added to the exclusions list, provided they fall within the four specified services areas of chemotherapy items, chemotherapy administration services, radioisotope services, and customized prosthetic devices. To be considered for the exclusions list, suggested additional services must also meet the same standards of being high cost and having low probability of occurring in the SNF setting.

### **Specifications to Define SNFs as "Distinct Parts"**

CMS is proposing specific criteria that would define a SNF as a distinct part of a hospital or other institution. The proposed revisions reflect the 1980 "hospital-based" criteria that focus on issues of common ownership and control, financial integration, and location. It also would add existing criteria that refer to "distinct parts," included currently in the *State Operations Manual* and survey and certification letters from CMS to state survey agencies.

Finally, CMS specifies that a facility must submit a written request, with supporting documentation, for consideration as a distinct part and that CMS must pre-approve all proposed changes to bed numbers in the distinct part.

In this proposal, CMS also creates a "composite distinct part" designation to maintain its policy of allowing only one distinct part SNF per institution. When two separate hospitals, each with its own SNF, merge, then one "composite distinct part" SNF results. A SNF would also be termed a "composite distinct part" when it is not co-located on the hospital's campus, but is acquired by a hospital that already has a distinct part SNF.

Moreover, CMS is proposing additional criteria that would apply to a composite distinct part of a hospital or non-hospital organization to address certain survey and certification issues that arise out of this organizational configuration. This criterion would treat the composite distinct part as a single distinct part of the institution to which it is based, and as such, the part would have only one provider agreement.

This composite distinct part would be required to be independently compliant with specific survey and certification requirements. These include residents' rights, posting of state advocacy contacts, displaying facility information and survey results, providing organized resident and family groups, equal access of residents to activities and social services, and certain personnel and environmental requirements.

## **CONCLUSION**

WHA is pleased that CMS has proposed a full marketbasket update in the SNF PPS for FFY 2004. However, U.S. House Ways and Means Committee Chairman Bill Thomas (R-CA) has announced his intention to introduce legislation that further reduces provider payments. Using the Medicare Payment Advisory Commission recommendations, Chairman Thomas has made it clear that he does not believe that nursing homes need any additional money.

WHA will continue to advocate for the full marketbasket update for nursing home providers, and asks that members contact their local members of Congress and explain why adequate Medicare reimbursement is essential to keep nursing home services available in the community.

WHA is seeking members' suggestions for additions to the consolidated billing exclusion list. Adding new items to the exclusions list will permit additional treatment modalities to be adequately paid for when ordered for residents.

WHA is carefully examining the proposed definitions of distinct part and composite distinct part SNFs and the implications for members. WHA has concerns about the establishment of a new composite distinct part designation and is interested in members' perspectives on this issue.

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.