



**FY 2010
MEDICARE REGULATORY
UPDATE**

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General Overview

- Final IPPS Rule released July 31, 2009
- No major policy developments or changes
- Hospitals get reprieve from proposed rule that would have resulted in \$979 million aggregate decrease in payments
- Things are not all bad: Hospitals will actually see an increase in Medicare payments

Market Basket Update

- CMS finalized an operating market basket update of 2.1% for FY 2010
- CMS' proposed reduction of market basket update by a 1.9% coding adjustment is put on hold
- CMS determined it did not yet have enough data to make the coding adjustment
- The coding adjustment has not been eliminated, just postponed

Reporting Hospital Quality Data for Annual Payment Updates (RHQDAPU)

- As a possible precursor to pay-for-performance, rule focuses on quality of service
- Hospitals that do not participate or do not comply with the RHQDAPU program requirements will face 2% decrease in annual payment update
- CMS adds 4 new quality measures for 2010
- Starting in FY 2011, CMS proposes that hospitals attest that their submitted data is accurate and complete via an online form

Outlier Payments

- Statutory outlier percentage: between 5-6% of total payments
 - CMS set target of 5.1%
- Estimated percentages paid in past years:
 - FY 2007: 4.64%
 - FY 2008: 4.8%
 - FY 2009: 5.4%
- FY 2010: Target remains 5.1%
 - CMS expects number of outliers to increase in FY 2010
 - Outlier threshold is raised to \$23,140 to keep outlier payments equal to 5.1% target

Wage Index

Labor Share

- CMS proposed a reduction to the labor share for hospitals with a wage index of over 1.0 in 2010
- Decrease was attributed to change in treatment of professional fees to differentiate between professional services purchased from local labor market and services purchased outside of that market
- CMS received heavy push-back from the industry
- Proposal has been modified in the Final Rule: there will be a decrease in the labor share, but it will be smaller

Wage Index *cont'd*

Intra-State Budget Neutrality for Rural Floor

- For FY 2009, CMS adopted a policy to apply budget neutrality adjustment to the rural and imputed floors within a state, rather than on national basis
- New policy is on a 3-year phase-in schedule:
 - FY 2009: Hospitals received blended wage index comprised of 20% state-adjusted and 80% national-adjusted
 - FY 2010: Hospitals will receive blended wage index payment comprised of 50% state-adjusted and 50% national-adjusted
 - FY 2011: Adjustment will be fully phased-in and reflect 100% of state level adjustment

Wage Index *cont'd*

Geographic Reclassification of Average Hourly Wage

- FY 2009 Final Rule: CMS adopted a policy to adjust reclassification AHW standard by comparing a reclassifying hospital's AHW relative to the AHW of the area to which it seeks reclassification

- Two-year phase-in schedule:
 - FY 2010
 - ❖ AHW standard for rural hospitals: 84%
 - ❖ AHW standard for urban hospitals: 86%
 - FY 2011 (and subsequent years)
 - ❖ AHW standard for rural hospitals: 86%
 - ❖ AHW standard for urban hospitals: 88%
 - ❖ Reclassification applications for FY 2011 due September 1, 2009

Disproportionate Share Hospitals

Rule finalizes three key changes to DSH calculation:

- Inclusion of labor & delivery (L&D) patient days
- Exclusion of observation beds and inpatient days
- Aggregation of inpatient days

DSH: Labor and Delivery Patient Days

- CMS implements proposal to count patient days associated with beds for labor and delivery days even when patient did not occupy routine bed prior to occupying ancillary bed
 - Rule is consistent with arguments advanced by many hospitals before the PRRB
- Rationale: Labor and delivery beds are inpatient beds and patient days spent in L&D beds are generally payable under IPPS

DSH: Observation Beds and Inpatient Days

- CMS revises regulation to exclude all observation beds and patient days from DSH calculation
 - Change applies to available bed count used for IME payment purposes
 - Change applies even if the patient is later admitted as an inpatient
- Rationale: Patient who receives observation services is considered outpatient; no payment under IPPS

DSH: Aggregating Inpatient Days

- Under Final Rule, hospitals will be allowed to accumulate the number of days in the numerator of the Medicaid fraction by date of discharge; date of admission; or dates of service
- Hospitals will be required to notify CMS, the FI, or the MAC in writing if they wish to change their counting methodology
- CMS, the FI, or the MAC will have authority to adjust the inpatient days reported by the hospital to prevent any “double-counting” of days

Graduate Medical Education

- Existing definition: “[A] new medical residency training program means a medical residency that receives initial accreditation by the appropriate accrediting body or begins training residents on or after January 1, 1995.” 42 C.F.R. § 413.79(1)
- CMS has “clarified” the definition to reflect its position that “a new medical residency program is one that receives initial accreditation for the first time, as opposed to reaccreditation of a program that existed previously at the same or another hospital.”

ARRA and HITECH

- CMS discusses anticipated implementation of ARRA's HITECH provisions
- HITECH provision of ARRA requires providers, including hospitals, to "meaningfully use" electronic health records and related health care technology by 2015, or face penalties
- CMS anticipates that it will test its ability to accept data from EHRs for various quality measures by July 2010
- CMS also hopes hospitals will use EHRs to report quality measures required under RHQDAPU program

No changes proposed for...

CMS did not propose any policy changes for the following issues, but will accept comments:

- MS-DRG relative weights
- Hospital acquired conditions (“HACs”)
- Present on admission indicators

QUESTIONS