American Hospital Association

Special Bulletin

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CMS ISSUES FY 2019 PROPOSED RULE FOR LTCH PPS

This bulletin is three pages.

The Centers for Medicare & Medicaid Services (CMS) April 24 issued its hospital inpatient prospective payment system (PPS) and long-term care hospital (LTCH) PPS proposed rule for fiscal year (FY) 2019. Select highlights of the proposed rule related to the LTCH PPS follow, while highlights related to the inpatient PPS are covered in a separate *Special Bulletin*. The AHA soon will hold a call to discuss the LTCH proposed rule with members, as well as issue an in-depth regulatory advisory on the rule. Watch for more information.

LTCH PPS Update for FY 2019: In FY 2019, Medicare payments to LTCHs will continue to be implemented under the statutorily mandated, two-tiered payment system, which includes a standard LTCH PPS component for higher-acuity cases and a site-neutral payment component for, in general, lower-acuity cases. When considering all LTCH provisions in the rule, CMS estimates that net spending on LTCH services would drop by 0.1 percent, or $5 million, in FY 2019 compared to FY 2018.

Standard Rate Update. For the 64 percent of cases expected to be paid an LTCH PPS standard rate in FY 2019, CMS proposes a net increase of 0.2 percent (or $6 million), compared to FY 2018. This figure includes the 2.7 percent market-basket update that would be offset by a statutorily mandated cut of 0.8 percent for productivity, and a 0.75 percent cut. Other proposed adjustments include the offset for phasing out the 25% Rule, as discussed below, and a decrease in high-cost outlier (HCO) payments. Specifically, CMS proposes an HCO threshold of $30,639 for standard rate cases in FY 2019, a substantial increase over the FY 2018 threshold of $27,381. This threshold would result in fewer outlier cases and aligns with the 7.975 percent HCO pool mandated by the 21st Century Cures Act.

Site-neutral Rate Update. For the 36 percent of LTCH cases expected to be paid an LTCH site-neutral rate in FY 2019, CMS proposes a net decrease of 1.1 percent (or $11 million) compared to FY 2018. Site-neutral rates are the lower of the inpatient PPS-

comparable per-diem amount, including any outlier payments, or 100 percent of the estimated cost of the case. In addition, the Bipartisan Budget Act of 2018 authorized changes for LTCH site-neutral cases. Specifically, blended payment for site-neutral cases – a 50/50 blend of LTCH PPS and site-neutral rates – was extended for an additional two years, to now include cost-reporting periods beginning in FYs 2018 and 2019. The legislation also reduced by 4.6 percent the FYs 2018 through 2026 market-basket updates for only site-neutral cases – a change that apparently at least some Medicare Administrative Contractors (MACs) already have begun to implement using protocols not explained in the proposed rule, which the AHA is investigating. For FY 2019, the proposed HCO threshold for site-neutral cases continues to mirror that of the inpatient PPS – $27,545. CMS states that it is continuing this approach, "Because our actuaries continue to project that site-neutral payment rate cases in FY 2019 will continue to mirror an IPPS case paid under the same MS-DRG…" However, the AHA will continue to communicate with CMS about our findings that LTCH site-neutral cases are materially different in cost and other variables than IPPS cases.

25% Rule Relief: The proposed rule calls for the elimination of the 25% Rule following CMS's one-year regulatory moratorium on the policy, which expires after September 2018. This moratorium was implemented to allow an evaluation of the ongoing need for the 25% Rule. The proposed rule notes that the advent of LTCH site-neutral policy in October 2015 lessened CMS's concerns that led to the introduction of the 25% Rule. As additional rationale for this proposed change, CMS also cites its interest in reducing regulatory burden.

To implement the removal of the 25% Rule in a budget-neutral manner, CMS proposes a one-time, permanent adjustment of -0.9 percent to offset the $36 million increase in aggregate payment levels that the agency estimates would otherwise occur. **We are very pleased that, as consistently urged by the AHA, CMS has proposed to withdraw the 25% Rule. However, we are concerned that this overdue change has been paired with a payment cut and are closely analyzing CMS's rationale and methodology.**

Proposed Changes to the LTCH Quality Reporting Program (QRP): CMS proposes only a few changes to the LTCH QRP. Specifically, the agency would remove three measures. Two measures – National Healthcare Safety Network (NHSN) Facility-wide Inpatient Hospital-onset Methicillin-resistant *Staphylococcus aureus* (MRSA) Bacteremia Outcome Measure and NHSN Ventilator-Associated Event (VAE) Outcome Measure – would be removed beginning with the FY 2020 LTCH QRP. Another measure, Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short Stay), would be removed beginning with the FY 2021 LTCH QRP. If finalized, providers would no longer be required to collect data on all three measures beginning with admissions and discharges on Oct. 1, 2018. CMS also

proposes to expand the methods by which the agency would notify an LTCH of noncompliance with the LTCH QRP requirements to include U.S. Postal Service mail and email from the MAC in addition to the current procedure that uses the QIES ASAP system.

NEXT STEPS

CMS will accept comments on the proposed rule through June 25. The final rule will be published around Aug. 1, and the policies and payment rates will take effect Oct.1. Please watch for a more detailed analysis of the proposed rule in the coming weeks, as well as an AHA member call to discuss the rule. If you have further questions, contact Rochelle Archuleta, AHA director of policy, at (202) 626-2320 or rarchuleta@aha.org.