

# PUBLICATION

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## CMS Publishes Proposed Rule on Medicare PPS and SNFs, Part 1 [Ober|Kaler]

**Authors: Howard L. Sollins**

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In the May 6 *Federal Register*, at pages 25767-25797, the Centers for Medicare & Medicaid Services (CMS) published the Medicare program's proposed regulation entitled "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2015 (Proposed SNF Rule). The Proposed SNF Rule is a combination of updates to fiscal year (FY) 2015 Part A SNF payment rates, changes to the manner in which that rate will be calculated, requests for comments, and proposed regulations. Comments are due June 30.

This is the first of two email alerts on the Proposed SNF Rule. Part II is available [here](#).

Major elements of the Proposed SNF Rule include the following:

- Updates to SNF payment rates for FY 2015;
- A proposal to adopt the most recent Office of Management and Budget (OMB) statistical area delineations used to determine if an SNF is classified as urban or rural for the purpose of applying the rate tables and determine the applicable wage index. This change would be coupled with a one-year transitional period in FY during which a blended wage index would be used;
- Invites comments about services that may be excluded from the SNF Part A rates under the consolidated billing rules, in light of new developments in health care delivery in certain areas;
- Provides information about the status of a CMS research project to evaluate SNF therapy payments, with a focus on the second phase that is under way;
- Proposes to revise policies concerning the "Change of Therapy (COT) Other Medicare Required Assessment (OMRA)";
- Proposes new regulatory language that is consistent with the Affordable Care Act governing the use of funds collected as a result of CMS-imposed civil money penalties;
- Provides observations from CMS about trends the agency has observed in therapy utilization; and
- Provides information about CMS interest in the acceleration of health information exchanges involving SNFs.
- Payment Update

The Proposed SNF Rule reviews the history of the development of SNF Part A rates and the manner in which they are updated, including the use of "SNF Market Basket Updates" based on HIS Global Insight Inc.'s forecast with specified historical data. The SNF Market Basket growth rate update is forecast at 2.4%, subject to further adjustment reducing it to 2.0%. The SNF Market Basket update can be reduced by a "Forecast Error Adjustment" to account for an error in a prior year's update. However, CMS does not propose this reduction in FY 2015 because the difference between the estimated and actual amount of change in the market basket index does not exceed a 0.5% threshold. The application of a "Multifactor Productivity Adjustment" reduces the Market Basket update factor to 2.0%.

CMS invites comment on its proposal to use the current OMB delineations to classify SNF as in urban or rural areas to enhance the accuracy of the use of the rate tables, with a unique approach to Puerto Rico SNFs concerning the wage index.

CMS referred to prior federal legislation providing for a temporary increase of 128% in the SNF prospective payment system (PPS) per-diem payment for SNF residents with acquired immune deficiency syndrome. This is a significantly increased rate for a small group of residents. This is not a permanent element, but it is proposed to remain in effect for FY 2015, using the International Classification of Diseases, Ninth Revision (ICD-9), not ICD-10 at this point since that has been delayed under other federal law.

## **SNP PPS Wage Index**

For FY 2015, hospital inpatient wage data, exclusive of the occupational mix adjustment, will continue to be used. It identified the OMB bulletin 13-01 from February 28, 2013 used for this purpose. CMS proposes a one-year transition with a blended wage index for FY 2015, and invites comments on this proposal.

## **Change of Therapy Other Medicare Required Assessment**

This addresses situations where therapy provided on a given PPS assessment did not provide an accurate account of therapy provided to a given resident outside the observation window for the most recent assessment. CMS now proposes to revise the Change of Therapy Other Medicare Required Assessment (COT OMRA) policy to permit SNFs to complete a COT OMRA for a resident who is not currently classified into a resource utilization group (RUG) therapy group but only in "rare" cases where the resident has qualified for a RUG therapy group on a prior assessment during the current Part A stay and had no discontinuation of therapy services during a specified period. This is a method to reclassify a resident into a therapy RUG versus as a means to initially classify a resident into therapy RUG.

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