

PUBLICATION

CMS Increases Hospice Payments, Updates Quality Reporting Requirements for 2019

September 14, 2018

CMS updated payment rates, implemented statutory changes, and continued to provide guidance on quality reporting measures and requirements in the FY 2019 Hospice Wage Index and Payment Rate Update Final Rule published on August 6, 2018. The new rates will be effective on October 1, 2018. In addition, the rule implemented a statutory change that will allow physician assistants (PAs) to serve as attending physicians for hospice patients, effective January 1, 2019.

Payment Rate Changes

The Final Rule sets forth a 1.8 percent increase in payments to hospices for FY 2019 equal to roughly \$340 million. The increase is based on a 2.9 percent market basket update reduced by a 0.8 percent productivity adjustment and an additional 0.3 percent adjustment as required by law. The rule increased the hospice aggregate cap amount by the same percentage, to \$29,205.44. The aggregate cap reflects a limit on the amount that a hospice may be paid during a year. The cap amount is determined by multiplying the number of Medicare beneficiaries in the hospice program during the cap year by the cap amount. Payments in excess of the cap must be returned to Medicare as overpayments.

As with other providers, hospices that do not meet applicable Hospice Quality Reporting Program (HQRP) requirements are subject to a two-percent reduction in their payments.

Quality Measures and Reporting

CMS also addressed several issues related to the data collected as part of the HQRP. As part of its "Meaningful Measures" initiative to reduce the burden of quality reporting on providers, CMS announced a new factor that it will consider in determining whether to remove a quality measure from reporting requirements. The new process is to evaluate whether the costs and burdens associated with a measure outweigh the benefit of its continued use. CMS stated that the goals of improving outcomes, incentivizing focus on certain care issues, and making public data available "have limited utility" in situations where, for example, "it cannot be easily interpreted by beneficiaries and used to influence their choice of providers."

CMS also finalized timelines for corrections to data submitted through the Hospice Item Set (HIS) to be reflected in measure scores on the Hospice Compare website. Separate from the 30-day reporting deadline for data submission, hospices will have approximately 4.5 months after the end of each quarter of the calendar year to submit corrections to the data submitted for that quarter. The relevant date will be the 15th day of the month that is approximately 4.5 months after the end of the quarter. For example, for the calendar quarter of January 1, 2019 – March 31, 2019, hospices will have until August 15 to ensure that the data are correct. Following that date, the data will be "frozen" and corrections will not be reflected in subsequent refresh of the Hospice Compare website. While the hospice may still submit corrections to quality data for 36 months after the initial submission, changes submitted after the "freeze" deadline will not be reflected on Hospice Compare.

CMS also announced that the Hospice Compare website will only display hospice scores on one measure, the Hospice and Palliative Care Composite Process Measure – Comprehensive Assessment at Admission, a composite measure that reflects the seven individual HIS measures reported through the HQRP. Data on the

individual component measures will not be displayed directly, though it will be accessible in an expandable/collapsible format on the site below the composite measure.

CMS also indicated that it will announce which measures will be displayed on the Hospice Compare website through sub-regulatory means in the future, including the timing of such displays. This may include data from hospice Public User Files (PUFs) presented in a "user-friendly" way to render it more useful to consumers.

Physician Assistants as Attending Physicians

As directed by the Bipartisan Budget Act of 2018, CMS updated the definition of "attending physician" at 42 C.F.R. § 418.3 to include PAs. Regulations at 42 C.F.R. § 418.304 were likewise amended to allow payment for PA attending physician services. Importantly, however, PAs are not authorized to perform face-to-face encounters for hospice patients or certify terminal illness. CMS also noted that its payment rules do not affect state scope-of-practice rules for PAs, which may limit their ability to serve as the patient's attending physician.

Additional Comments

In the proposed rule, CMS provided a summary analysis of certain hospice utilization trends. In its discussion of the comments received on this analysis, CMS noted a request for additional guidance on the use of the general inpatient level of care, particularly given increased scrutiny on the use of this level of care and variability in costs depending on whether care is provided in its own facility or through contracts with another entity. CMS declined to provide further guidance on the topic.