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MEMORANDUM

TO: RHCF Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst

DATE: May 6, 2009

SUBJECT: SNF PPS Proposed Rule

ROUTE TO: Administrator, CFO

ABSTRACT: CMS issues the 2010 proposed Medicare SNF PPS rule with a cut in payments.

Introduction

The Centers for Medicare and Medicaid Services (CMS) has announced its proposed rule for the skilled nursing facility (SNF) prospective payment system (PPS) rule for federal fiscal year (FY) 2010. The final rule will be effective from October 1, 2009 through September 30, 2010. The proposed rule went on display on May 1, 2009 at the Office of the Federal Register's Public Inspection Desk under "Special Filings" at: www.federalregister.gov/inspection.aspx.

Proposed Payment Reduction

This proposed rule resurrects some of the onerous provisions first introduced with the proposed FY 2009 SNF PPS rule. As you recall, the current period's rule initially included a case mix recalibration provision which would have resulted in a net negative impact on the FY 2009 rates. Thanks in large measure to lobbying efforts of groups like NYAHSA and AAHSA, that provision was never included in the final rule. We are facing similar challenges with this latest version of the rule.

According to CMS, the rule calls for payments to SNFs to be reduced by \$390 million, or 1.2 percent lower than payments for FY 2009. Apparently, this is not driven by any desire to achieve some cost cutting measures, but is part of an effort to re-balance the system relative to earlier adjustments to the case-mix indexes (CMIs). This adjustment dates back to changes implemented to the system with the expansion to 53 resource utilization groups (RUGs).

For FY 2006, CMS made RUG refinements to better account for the resources used in the care of medically complex patients with high rehabilitation needs. Although the CMI adjustment that

accompanied the expansion of the RUG model was intended to ensure that there would be no change in overall spending levels, it instead resulted in a significant increase in Medicare expenditures, because actual utilization under the refined case-mix system differed significantly from the projections on which the adjustment was based. CMS found that patients were being classified into one of the newly created higher paying RUG groups more than 30 percent of the time (as compared to 19 percent projected by CMS), thus triggering Medicare payments far in excess of the original projections.

The proposed FY 2010 recalibration is intended to correct for what CMS views as a problem in the system and would result in a reduction in payments to nursing homes of \$1.05 billion, or 3.3 percent. This decrease would be partially offset by the proposed FY 2010 Market Basket Index (MBI) update of 2.1 percent or \$660 million. The combination of the positive MBI of 2.1 percent and the negative recalibration of 3.3 percent yields the net 1.2 percent reduction.

In addition to recalibrating and updating the SNF PPS payment rates, this proposed rule would:

- Propose a revised case-mix classification methodology (RUG-IV) and implementation schedule for FY 2011, reflecting updated staff time measurement data derived from the recently-completed Staff Time and Resource Intensity Verification (STRIVE) project;
- Invite comment on a possible new rate component to account for the use of non-therapy ancillaries (as recommended by MedPAC);
- Include information on the transition to the Minimum Data Set, Version 3.0 (MDS 3.0) redesigned nursing home resident assessment instrument, including an implementation schedule;
- Invite comment on applying the quality monitoring mechanism in place for all other SNF PPS facilities to rural swing-bed hospitals; and
- Invite comment on a possible new requirement for the quarterly reporting of nursing home staffing data along with input on technical corrections.

Comment Period

To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 30, 2009 and reference file code: CMS-1410-P.

1. Electronically. Please go to <http://www.regulations.gov>, and follow the instructions under the “More Search Options” tab.

2. By regular mail. Please mail written comments to the following address and allow sufficient time for comments to be received before the close of the comment period:
Centers for Medicare & Medicaid Services, Department of Health and Human Services,
Attention: CMS-1410-P, P.O. Box 8016, Baltimore, MD 21244-8016.

NYAHSAs and AAHSAs are currently in the process of reviewing and analyzing the proposed rule and will be submitting comments on behalf of our members. Member input and suggestions regarding comments we should submit are greatly appreciated. Please contact me with your comments and suggestions at pcucinelli@nyahsa.org or call 518-449-2707 ext. 145. NYAHSAs will be sharing additional details on the proposed rule as they become available.