Payment Matters®
Update on Medicare and Medicaid Payment Issues

May 13, 2011

www.ober.com

IN THIS ISSUE

Editors: Leslie Demaree Goldsmith and Carel T. Hedlund

FFY 2012 IPPS Proposed Rule Would Eliminate Hospice Data from IME and DSH Calculations, Modify the ESRD Add-On Payment Calculation

By: Leslie Demaree Goldsmith and Mark A. Stanley

Under the Inpatient Prospective Payment System (IPPS) Proposed Rule for federal fiscal year (FFY) 2012, hospitals that serve a disproportionate share of Medicaid or end-stage renal disease (ESRD) patients would see changes to their payment adjustments. Hospitals that treat a large number of hospice patients on an inpatient basis will be particularly interested in proposed changes to the indirect medical education (IME) and disproportionate share hospital (DSH) adjustments. Hospitals that qualify for the add-on payment for hospitals with at least 10% ESRD discharges would also be affected by the proposed rule.

Hospitals that receive an IME or DSH adjustment should take note of the proposed change to rules for calculating those adjustments, which may be viewed here [PDF]. CMS has proposed to eliminate hospice beds from the IME calculation and hospice days from the DSH calculation. Hospice days would be removed from both the numerator and denominator of the Medicare and Medicaid fractions. In proposing to remove this hospice data, CMS notes that hospice care is not reimbursed under the IPPS, and that the level of care given to hospice patients is generally not on par with acute inpatient care. CMS argues that hospice days are comparable to observation and swing bed days, which were removed from the DSH adjustment in the FFY 2005 IPPS Final Rule. CMS has proposed an exception for IPPS-level acute care hospital services to a hospice patient for which it would receive payment under IPPS, such as treatment for a broken bone that is unrelated to the terminal illness.

The adjustment for hospitals that treat a significant percentage of ESRD patients also would be modified under the proposed rule. Under existing regulations, if at

least 10% of a hospital's Medicare discharges receive dialysis during the inpatient stay, that hospital is entitled to an additional Medicare payment. CMS is "clarifying" how that percentage is calculated. Specifically, CMS stated that it is "clarifying" its policy that the term "Medicare discharges," as used in 42 C.F.R. § 412.104(a), refers to discharges of all beneficiaries "entitled to Medicare Part A," whether or not Medicare Part A pays for the discharge. This, CMS asserts, would include discharges of individuals whose inpatient benefits are exhausted or whose stays are not otherwise covered by Part A, as well as discharges for individuals enrolled in Medicare Advantage Plans. The "clarification" of this term requires a revision to PRM § 3630.1, which currently includes only Medicare Part A discharge data in the denominator of the ESRD percentage calculation. This will undoubtedly increase the denominator in the 10% threshold calculation. The ESRD patients in the numerator of the percentage calculation would similarly include all ESRD beneficiaries "entitled to Medicare Part A" benefits (subject to the exclusion of certain discharges associated with MS-DRGs that include payment for the cost of inpatient dialysis treatments). The proposed change to the ESRD adjustment may be viewed here [PDF].

Ober|Kaler's Comments

Providers should examine how the removal of hospice beds from the IME calculation and removal of hospice days from the DSH calculation will impact them. Similarly, hospitals should consider how the expanded definition of Medicare discharges will affect their ESRD percentage calculation. *Comments to the final rule must be received no later than 5PM EDT on June 20, 2011.*