AMERICAN HEALTH LAWYERS ASSOCIATION

PRACTICE GROUP email alert

To: Regulation, Accreditation, and Payment Practice Group Members

From: Barry Alexander, Chair
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Date: July 18, 2011

CMS Proposes 2012 Home Health Agency Payment Changes

By Jeanne Vance*

The Centers for Medicare & Medicaid Services (CMS) proposed changes for Medicare home health agency (HHA) payments for calendar year (CY) 2012. The proposed rule, which was published in the July 12, 2011, *Federal Register*, results in a net 3.35% decrease to HHA Medicare payments after taking into account the effects of both market basket and wage index updates and reductions in the home health prospective payment system (PPS) rates.

Market Basket Update

CMS has proposed a CY 2012 market basket update of 1.5%. The market basket index is calculated based on inflation in the prices of certain goods and services included in the delivery of home health services, reduced by 1% as required under the Affordable Care Act.

Existing law provides that HHAs will get a full market basket increase in their Medicare payments only if they submit certain quality information about the services they deliver to CMS. Under the proposed rule, CMS would continue to use Outcome Assessment and Information Set (OASIS) data as one form of quality data that HHAs need to submit to CMS for the measurement of healthcare quality. Submission of OASIS data would partially qualify HHAs to receive the full Medicare home health market basket update. HHAs not reporting the required quality data would have their market basket percentage decreased by -.5% for CY 2012.

HHA PPS Payments

Medicare pays HHAs under a PPS that provides higher payments to HHAs providing care for patients that have greater needs for home health

services. The Medicare program calculates payments based on information obtained from patient assessments completed by clinicians and reported to the Medicare program.

CMS proposes to reduce HHA PPS payments by 5.06% in 2012. In addition, the proposed rule would make structural changes to the calculation of HHA PPS payments. CMS would remove two hypertension codes from the case-mix system, lower payments for high therapy episodes, and recalibrate HHA PPS case-mix weights in a fashion that is intended to result in budget neutrality.

Relaxing of Home Health Face-to-Face Encounter Rule

Existing law provides that a physician must certify patient eligibility for Medicare home health benefits based on a face-to-face encounter between the Medicare beneficiary and the certifying physician (or specified non-physician practitioners). CMS proposes to permit the certifying physician to base the certification on information obtained by the certifying physician from a physician who attended to the patient in the hospital or in a post-acute setting.

Clarification to Benefit Policy Manual Language on "Confined to the Home" Definition

To be eligible to receive covered Medicare home health services under the Medicare program, a physician must certify that the patient is "confined to his/her home." In response to recommendations from the Office of Inspector General, CMS proposes revisions to the definition of "confined to his/her home" to provide greater clarity to specific arrangements.

Comments to the proposed rule are due on September 6, 2011.

CMS has issued a press release to accompany the rule's release.

**We would like to thank Jeanne Vance, Esquire (Salem & Green, Sacramento, CA) for providing this email alert.*

Member benefit educational opportunity:
Participate in the webinar: *What's your rH factor? IRC 501(r) and Schedule H—Impact on Tax-Exempt Hospitals* (July 21, 2011).