Allina Hospitals & Clinics
Compliance and Regulatory Affairs
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Julie M. Stankivic, Health Insurance Specialist
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Mail Stop C5-06-27
Baltimore, MD 21244

RE: Comments to the February 2, 2009, CMS Town Hall Meeting; Medicare Classification Criteria for Inpatient Rehabilitation Facilities

Dear Ms. Stankivic;

On behalf of Allina Hospitals & Clinics (Allina), I appreciate the opportunity to provide feedback on the classification criteria for inpatient rehabilitation programs. We will not be in attendance in Baltimore but will be listening in by telephone.

Allina is a family of hospitals, clinics and care services that believes the most valuable asset people can have is their good health. We provide a continuum of care, from disease prevention programs, to technically advanced inpatient and outpatient care, to medical transportation, pharmacy and hospice services. Allina serves communities around Minnesota and in western Wisconsin.

The Sister Kenny Rehabilitation Institute (SKRI or Sister Kenny) is a center of excellence of Allina Hospitals and Clinics. Sister Elizabeth Kenny established SKRI in 1942 in response to the polio epidemic. Her pioneering principles of muscle rehabilitation became the foundation of modern physical therapy. SKRI comprises two hospital-based inpatient rehab facilities totally 55 beds, two spine centers, 20 outpatient physical therapy clinics, and many other specialty clinics. We treat over 1300 rehab inpatients a year, and more than 70,000 outpatients.

Our comments follow:

1. **Effect of the "75% rule" on Medicare beneficiaries access to Sister Kenny IRFs**
   Comment: the 75% rule (now 60%) requires us to monitor our compliance on a regular basis. We have had to adopt a conservative interpretation of the rule (conditional compliance) because it is not always certain how well we would do in fact if we used a more liberal interpretation (presumptive compliance).

   The complexity of compliance is exacerbated by the fact that the MAC (nee FI) initially looks at our Medicare population to determine compliance. This has a general inhibitory effect on our admission process because we do not distinguish Medicare patients from non-Medicare patients in our admission criteria – and our compliance with the 60% rule does vary depending on the payer population.

The overall net effect of always making sure we are in compliance is that we do not actively seek patients with certain diagnoses that fall within the 40% part of the rule, even though we believe they could meet the criteria for medical necessity and significantly benefit from our services. This negatively affects Medicare beneficiaries' access to Sister Kenny's IRFs.

2. **Alternative criteria or refinements to the 60% rule to determine IRF Classification**
   Comment: We are aware of the Response that CMS gave in the 2009 Final Rule (73 FR 46388) distinguishing medical necessity from the 60% rule used to classify IRFs from other inpatient hospital settings of care.

   We submit that this distinction, while serving different functions in the past, is not in the best interest of the Medicare beneficiaries and that the 60% rule should be abrogated in favor of satisfying the criteria for medical necessity.

   Use of diagnoses as a means of distinguishing IRFs from other hospital settings runs counter to the foundation of IRFs: we deal with impairments. The main question is: Does a patient have an impairment and would significantly benefit from multiple therapies (and not what is the patient's diagnosis)? The remainder of the criteria for medical necessity would then follow. If a Medicare beneficiary can benefit from inpatient rehabilitation, their diagnosis should not be used as an artificial barrier denying them access.

   If there remain concerns about the distinction of IRFs from other hospital settings, this could be addressed in other ways, such as requiring special accreditation by staff.

3. **Are there other conditions commonly treated in IRFs that are outside of the 13 conditions specified in the 60% rule?**
   Comment: Sister Kenny treats a number of patients whose conditions fall within the 40% part of the rule. Many of these patients are survivors of critical illness. Patient outcomes, as measured by gains in the Functional Independence Measure and by Discharge to Community, demonstrate the benefit they received while at Sister Kenny. Again, impairment, not diagnosis, should be the main focus.

Thank you for considering our comments on this important issue. If you have any questions please feel free to contact me at (612) 262-4912.

Sincerely,

Nancy G. Payne, RN
Director Compliance and Regulatory Affairs