Dear Ms. Stankivik,

Thank you for the opportunity to submit comments on the IRF 75% (currently 60%) Rule in preparation for Monday's Town Hall meeting. The factor which is drastically curtailing access of Medicare beneficiaries to quality rehabilitation services is not primarily the 75% Rule. The reduction of quality services to beneficiaries is primarily due to LCDs and RACs and their inappropriate denial of beneficiaries served. The LCD and RAC denials are arbitrary and are based on the assumption that beneficiary needs can be met in a less intense level of care, in other words, a nursing home. This is decreasing rehab hospital payments, but is also significantly increasing total expenses as a large number of these beneficiaries stay in the nursing home an extended period of time, some never leaving.

Even beneficiaries who qualify under the 75% Rule are being denied by the FIs/MACs. A Medicare beneficiary with a stroke, who came to Madonna, was later denied by Mutual of Omaha (now the "Legacy" division of Wisconsin Physician Services). This man was in a wheelchair and unable to care for himself when he arrived at Madonna. After and intensive rehabilitation program, 24/7 rehab nursing, and daily physician care, he was able to leave at an independent level. When I spoke with him a few months after discharge, he was not only caring for himself but helping his elderly neighbors shovel their snow and mow their laws. If this individual had gone to a nursing home there is a strong likelihood that he would still be there rather than being a productive member of his community. This a prime example of the negative effect LCDs and RACs are having on Medicare beneficiaries.

Madonna has witnessed a 20% decrease in rehab hospital admissions for the second year in a row as a result of the arbitrary application of LCDs. In addition, Madonna is spending large amounts of time and additional money appealing these inappropriate denials. Each appeal of a denial costs Madonna approximately $6,000. These are funds that are being diverted from patient care. To date, 68% of Madonna's denials have been overturned during the appeal process.

The original intent surrounding changes to the 75% Rule was to stop the small hospital based rehab unit from taking patients with hip and knee replacements. These units are now substituting for the loss of orthopedic patients by admitting patients who have had a stroke or brain injury. These units do not have the resources to meet the complicated needs of these individuals and quality of care is becoming an issue. The large, specialized rehabilitation hospitals like Madonna are suffering and are in jeopardy.

It is clear that CMS wants to decrease the costs paid to rehabilitation providers. They are using the LCDs and RACs to achieve this goal. We agree that costs have to be controlled. The easiest way to do this is to implement a payment differential for individuals who have had a hip and/or knee replacement and continue with enforcement of the 75% Rule. Madonna supports this approach. Changes to the 75% rule, without reformation of the abuses of the LCD and RAC review processes, will not result in better access to quality care for Medicare beneficiaries. To assure that Medicare beneficiaries receive the care they need and deserve, we must stop the inappropriate denial of rehabilitation beneficiaries using the LCD and RAC guidelines.

Respectfully,

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