FINAL RULE ADOPT PAYMENT AND POLICY CHANGES FOR LONG-TERM CARE HOSPITALS FOR RATE YEAR 2009

OVERVIEW:

On May 2, 2008, the Centers for Medicare & Medicaid Services (CMS) issued a final rule that would establish payment rates and policy changes for hospitals paid under the Long-Term Care Hospital (LTCH) Prospective Payment System (PPS) for Rate Year (RY) 2009. The rule is intended to assure appropriate payment for services to severely ill patients or patients having medically complex conditions while giving LTCHs incentives to provide more efficient care to Medicare beneficiaries. The final rule takes into account certain changes that were mandated by the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) that was signed into law too late for inclusion in the RY 2009 proposed rule.

BACKGROUND:

Long-term care hospitals are generally defined as hospitals that have an average Medicare inpatient length of stay of greater than 25 days. These hospitals typically provide extended medical care for patients who may suffer from multiple acute or chronic conditions or require clinically complex care. Services typically include respiratory therapy, head trauma treatment, and rehabilitation programs. Approximately 390 long-term care hospitals are paid under the LTCH PPS.

Medicare payments to LTCHs are based on a prospective payment system (LTCH PPS). The LTCH PPS was first implemented for cost reporting periods beginning on or after October 1, 2002. Under the LTCH PPS, Medicare pays for a beneficiary's hospitalization at an LTCH based on classification of the patient's diagnosis into Medicare-severity long-term care diagnosis related groups (MS-LTC-DRG). These are the same MS-DRGs used in the acute care hospital inpatient prospective payment system (IPPS), weighted to reflect the different resources used by LTCHs. Aggregate LTCH PPS payments under the final rule for RY 2009, based on the 15 month period from July 1, 2008 through September 30, 2009, are estimated at approximately $4.47 billion.

Since RY 2004, payment rates and policies under the LTCH PPS have been updated annually for a rate year that runs from July 1 through June 30, while the annual updates to the MS-LTC-DRGs have been included in the IPPS final rule published each year in August and is effective on October 1.

CHANGE IN THE EFFECTIVE DATE OF THE ANNUAL PAYMENT RATE UPDATE:

CMS is adopting its proposal to consolidate the two annual update cycles for the LTCH PPS. This change will result in the effective date of the annual update for the LTCH PPS payment rate and related policy changes that which are currently effective beginning each July 1, coinciding with the annual update of the MS-LTC-DRG classifications and recalibration of the relative weights that are effective beginning each October 1. Under this policy, therefore, the final rates adopted for RY 2009 will be effective for a 15-month period, from July 1, 2008, through September 30, 2009. In future years, however, LTCH PPS payment policies and rates and the MS-LTC-DRGs will be updated on the same schedule, becoming effective on October 1.

UPDATE OF THE STANDARD FEDERAL RATE FOR 2009 RATE YEAR:

The final rule establishes a standard Federal rate for RY 2009 of $39,114.36, compared with the $39,076.28 projected standard Federal rate in the proposed rule. This amounts to an increase of 2.7 percent over the FY 2008 standard Federal rate established by the MMSEA of 2007. The FY 2009 standard Federal rate is based on a revised market basket of 3.6 percent (compared with the 3.5 percent market basket in the proposed rule), and an adjustment of 0.9 percent to take into account changes in coding practices and documentation in 2006 rather than the treatment of more resource intensive patients. The FY 2009 standard Federal Rate will apply to discharges during the 15 month period from July 1, 2008, through September 30, 2009.

OUTLIER THRESHOLD FOR HIGH-COST CASES:

In unusually costly cases, Medicare may pay a LTCH an additional amount, called an outlier payment, in addition to the Federal prospective payment under the LTCH PPS for the MS-LTC-DRG. To be eligible for this payment, the LTCH's estimated costs in treating the case must exceed the MS-LTC-DRG payment by the outlier fixed-loss amount. For RY 2009, CMS is increasing the fixed-loss amount for high cost outlier cases to $22,960.00 from $20,738.00. As under current regulations, estimated aggregate high cost outlier case payments are limited to 8 percent of total estimated LTCH payments.

WAGE INDEX PROVISIONS:

CMS is finalizing the following changes affecting the wage index that were included in the proposed rule:

- An annual update to the wage index based on the most current data available.
- Updating the labor-related share from 75.788 percent to 75.662 percent, based on the most recent data from the 15-month Rehabilitation, Psychiatric and Long-Term Care (RPL) market basket.
- Establishing policies for determining a LTCH PPS wage index value for Core Based Statistical Areas (CBSA), where there is no IPPS wage data. (There are currently no LTCHs located in any of these areas.)
- Updating the CBSA labor market area definitions based on the most recent revisions issued by OMB, which CMS adopted under the IPPS in the FY 2008 final rule.
- Codifying the definitions of urban and rural directly in the LTCH PPS regulations rather than referring to the definitions in the IPPS regulations.

IMPACT OF FINAL RULE ON LTCH PAYMENTS FROM RY 2008 TO RY 2009:

CMS estimates that the changes adopted in this final rule will increase total payments to LTCHs by approximately 2.5 percent, or approximately $110 million, for the first twelve months of RY 2009, as compared to estimated RY 2008 LTCH PPS after taking into account changes mandated by the MMSEA. This projected increase is primarily due to the 2.7 percent rate update, but estimated increases in payments for high cost and short-stay outlier cases will also contribute to the approximate increase in payments.

For more information, see the CMS Web site at:
www.cms.hhs.gov/LongTermCareHospitalPPS/LTCHPPSRN/list.asp.

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