CMS Releases Medicare Skilled Nursing Facility Payment Rule for 2012

The Centers for Medicare and Medicaid Services (CMS) has released the federal fiscal year (FFY) 2012 proposed payment rules for the Medicare Skilled Nursing Facility (SNF) Prospective Payment System (PPS). The proposed rule updates SNF payment rates and policies and implements provisions of the Affordable Care Act (ACA) of 2010.

Comments on the proposed rule are due to CMS by Monday, June 27.

Highlights of the SNF PPS proposed rule include:

**Payment Rate Update:** CMS’ proposed rate updates include a full marketbasket, an ACA-mandated productivity reduction, and a budget neutrality adjustment. The net change for all of these factors is 1.5%. The following table shows the proposed SNF per diem federal payment rates:

<table>
<thead>
<tr>
<th>Area</th>
<th>Nursing Case-Mix</th>
<th>Therapy Case-Mix</th>
<th>Therapy Non-Case-Mix</th>
<th>Non-Case-Mix</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td>$160.20</td>
<td>$120.68</td>
<td>$15.90</td>
<td>$81.76</td>
</tr>
<tr>
<td>Rural</td>
<td>$153.07</td>
<td>$139.15</td>
<td>$16.97</td>
<td>$83.28</td>
</tr>
</tbody>
</table>

The proposed FFY 2012 per diem federal payment rates would be updated as follows:

- **Plus 2.7%**: CMS is proposing to update the SNF PPS per diem rates by a marketbasket of 2.7%.
- **Minus 1.2 percentage points**: Offsetting the marketbasket is an ACA-mandated productivity reduction of 1.2 percentage points.
- **Plus 0.01%**: CMS is proposing to increase the per diem rates by 0.01% to ensure the budget neutrality of the payment system based on changes to the wage index.

**Labor Share and Wage Index:** CMS is proposing to decrease the labor-related share of the per diem federal rates from 69.311% for FFY 2011 to 68.805% for FFY 2012. This change would increase payments to SNFs with a wage index less than 1.0 and decrease payments for those with wage indexes greater than 1.0. CMS will continue to use the pre-rural floor, pre-reclassified, un-adjusted hospital wage index for FFY 2012 payment determinations.

**Parity Adjustment:** The FFY 2011 RUG-IV weights and subsequently SNF PPS payments were adjusted for what CMS terms a “parity adjustment” in order to maintain budget neutrality (i.e. parity) with what payments would have been had the RUG-III rates remained in effect. At the time, CMS anticipated that the nursing component case-mix indexes (CMIs) would require an upward adjustment of 61% in order to compensate for the downward shift in payments resulting from cases moving from RUG-III to lower-weighted RUG-IV categories.

Using updated data (3 months of claims from FFY 2011), CMS analysis has determined that the actual case-mix shift was higher than anticipated and that the FFY 2011 parity adjustment was too large. CMS has determined that the unanticipated increase in case-mix is due to the
documentation of group therapies on the new MDS 3.0, which causes more cases than expected to be grouped to the higher-weighted therapy RUGs and, therefore, is not due to a true increase in case-mix. CMS is proposing two alternative approaches for addressing this issue and seeks comments from the industry as to the preferable approach.

- **Option 1 – Recalibration of the Parity Adjustment:** Under this proposed option, CMS would reduce the nursing component weights for those RUGs that had the largest variance from the original parity estimate, i.e. the nursing component of the RUG-IV therapy groups. This recalibration would significantly reduce the weights for those RUG-IV groups and would reduce the Medicare SNF PPS payments by an estimated $4.5 billion per year compared to what payments would be without this recalibration.

- **Option 2 – No Recalibration for FFY 2012:** Under this proposed option, CMS would hold off on recalibrating the RUG-IV weights until more data could be compiled and analyzed. It is possible that the redistribution of cases during the first 3 months of FFY 2011 is not indicative of the full year’s trend. It is also possible that the distribution of cases in FFY 2012 will be different again, because CMS is proposing a change to the documentation guidelines for group therapies.

CMS provides no information as to what or how an adjustment might be implemented in FFY 2013 if the second option is adopted.

**AIDS Per Diem Adjustment:** The AIDS per diem adjustment of 128% for SNF residents with AIDS remains in effect.

**Establishment of a Value-Based Purchasing (VBP) Program:** As required by the ACA, CMS is developing a Report to Congress on a proposed SNF VBP program and its implementation. That report will be ready by the mandated deadline of October 1, 2011. CMS will be seeking stakeholders’ input on its proposal.

**Establishment of a Healthcare-Acquired Condition (HAC) Payment Policy:** The ACA requires CMS to conduct a study on ways to expand the existing HAC payment policy to other provider settings, including SNFs. CMS states that they are currently in the process of such a study, to be presented to Congress by January 1, 2012. CMS will be seeking stakeholders’ input on its findings.

**Disclosure of Ownership:** CMS is proposing to revise/expand the reporting requirements that Medicare SNFs and Medicaid nursing facilities must disclose at the time of enrollment and when any change in ownership occurs, in order to implement mandates of the ACA.

**Therapy Student Supervision:** In keeping with its current policies in other care settings, CMS is proposing to revise its current policy regarding the supervision of therapy students in SNFs. A therapy student working in an SNF would no longer be required to be in the supervising therapist’s “line-of-sight.” Each SNF would be responsible for determining its own appropriate level of supervision, within adherence to state and federal laws and standards.

**Payment for Group Therapy:** For payment purposes under the SNF PPS, CMS is proposing to establish a standard that defines group therapy as therapy provided simultaneously to four
patients who are performing similar therapy activities. Further, CMS would require that all group therapy minutes be divided by 4 to recognize this standard and adjust for the allocation of the therapist’s time. The current 25% cap on group therapy minutes will remain in effect along with the requirement that the supervising therapist for a group may not supervise any other individuals or groups at the same time.

The provisions of the FFY 2012 SNF PPS proposed rule will be published in the May 6, 2011 Federal Register. A display copy of the proposed rule is available on the CMS Web site at: https://www.cms.gov/SNFPPS/LSNFF/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=3&sortOrder=descending&itemID=CMS1247143&intNumPerPage=10.