National Update: Federal Legislative and Regulatory Issues Affecting Home Care and Hospice

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William A. Dombi, Esq., President, NAHC
Mary Carr, Vice President, Regulatory Affairs, NAHC

CY2020 Proposed Medicare Home Health Rate Rule…plus

- **Published July 11, 2019**
- **https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-14913.pdf**
- **Includes:**
  - **2020 Payment Model Reform (PDGM)**
  - **CY 2020 HHPPS rates (1.5% increase over 2019)**
  - **2020 Rural add-on**
  - **HHVBP demonstration program public reporting**
  - **Quality measures and patient assessment modifications**
  - **2021 Home Infusion Therapy benefit restated**
  - **Therapist assistants permitted to provided maintenance therapy**
  - **Reduction of POC requirements as conditions of payment**

CY 2020 HHPPS

- **PDGM applies only to care episodes that begin January 1, 2020**
- **HHPPS rates updated for CY 2020 (episodes that begin before January 1 and end after that date)**
  - **2019 payment model uses an "end date" approach to payment.**
  - **CMS proposes to update the 2019 episodic rates from $3154.27 to $3,221.43.**
  - **The latest the 60-day episodic payment will cover is an episode ending February 28, 2020 for an episode that began prior to January 1.**
- **The per visit rates for LUPA claims are increased by 1.5% over 2019 rates plus a 1.0065 adjustment to account for wage index budget neutrality.**
- **NRS add-on updated**

Medicare Home Health Payment Reform: 2020

- **PDGM architecture finalized in 2019 rulemaking**
- **2020 Proposed Rule sets out:**
  - **Payment rates**
  - **Revised behavioral adjustment**
  - **Outlier standards**
  - **Updated wage index**
  - **Recalibrated case mix weights**
  - **RAP changes**
  - **Notice of Admission requirement**

2020 Per Visit Rates

TABLE 23: CY2020 NATIONAL PER-VISIT PAYMENT AMOUNTS

HH Discipline	CY2019 Per-Visit Payment	Wage Index Budget Neutrality Factor	CY2020 HH Payment Update	CY2020 Per-Visit Payment
Home Health Aide	$66.34	X1.0065	X1.015	$ 67.77
Medical Social Services	$234.82	X1.0065	X1.015	$239.89
Occupational Therapy	$161.24	X1.0065	X1.015	$164.72
Physical Therapy	$160.14	X1.0065	X1.015	$163.60
Skilled Nursing	$146.50	X1.0065	X1.015	$149.66
Speech-Language Pathology	$174.06	X1.0065	X1.015	$177.82

2020 NRS Rates

TABLE 18: CY2020 NRS PAYMENT AMOUNTS

Severity Level	Points (Scoring)	Relative Weight	CY2020 NRS Payment Amounts
1	0	0.2698	$14.84
2	1 to 14	0.9742	$53.59
3	15 to 27	2.6712	$146.94
4	28 to 48	3.9686	$218.31
5	49 to 98	6.1198	$336.65
6	99+	10.5254	$579.00

Rural Add-On

- **Revised by BiBA 2018**
  - **Low Population Density HHAs (counties with 6 or fewer people per square mile)**
    - **4% add-on in 2019**
    - **3% add-on in 2020**
    - **2% add-on in 2021**
    - **1% add-on in 2022**
  - **High utilization counties (top quartile of utilization on average)**
    - **1.5% add-on in 2019**
    - **.5% add-on in 2020**
  - **All other rural areas**
    - **3% add-on in 2019**
    - **2% add-on in 2020**
    - **1% add-on in 2021**

Outlier

- **2019 formula continued**
  - 15 minute unit approach
- **FDL increases from 0.51 to 0.63**
  - Decreases volume of outlier claims

Bipartisan Budget Act of 2018 (BiBA)

- P.L. 115-123, Section 51001
- Mandates payment model reform
  - 2020
  - Budget neutral transition
  - Behavioral adjustment guardrails
  - Stakeholder involvement
  - Prohibits therapy volume thresholds for payment amount
  - 30-day payment unit
- MBI (inflation update) set at 1.5% in 2020 (P.L. 115-123, Section 53110)

2020 PDGM Model Basics

- Patient-Driven Groupings Model (PDGM)
  - 30-day payment unit
  - Therapy utilization domain of HHPPS dropped
  - 432 payment groups
  - Episode timing: "early" or "late"
  - Admission source: community or institutional
  - Six Clinical groupings (plus subgroups in MMTA)
  - Functional level (OASIS based)
  - Comorbidity adjustment: secondary diagnosis based
  - LUPA range of 2-6 visits
  - Bundled services and supplies
  - Case mix weights recalibrated from 2018 version

Proposed 2020 PDGM Base Rates

- **30-day payment unit: $1791.73**
  - **estimated CY2020 30-day period cost of $1,577.52 (+14%)**
  - **CY 2020 estimated 30-day budget neutral payment amount of $1,754.37 (pre-required 1.5% update in BiBA 2018)**
  - **CY 2019 PDGM rate estimated to be $1,753.68 if PDGM started in 2019 = $1779.90 in 2020 with 1.5% update**

Behavioral Adjustment

- **Proposal maintains framework for behavioral adjustment**
  - **Clinical Group -5.91% (-4.28%)**
  - **Comorbidity -0.37% (-0.38%)**
  - **LUPA -1.86% (-1.75%)**
- **Increases adjustment to 8.01% from 6.42%**
  - **CMS neglected to consider earlier change to 12 diagnosis categories**

Notice of Admission

- **Notice of Admission w/in 5 days**
  - **Electronic option**
- **Intended to make CWF most current and avoid difficulties "early" and "late" designations in PDGM**
- **Penalty for late NOA proportionate to degree of lateness (1/30th rate reduction for each late day)**

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RAP Phase-Out

- **No RAP in 2020 for new HHAs**
- **Existing HHAs get reduced RAP at 20%in 2020**
- **No RAPs for any HHA starting 2021**
- **CMS concerns on fraud and abuse**
- **CMS view that 30-day billing obviates need for RAP**

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PDGM Advocacy

- **Focus on the behavioral adjustment**
- **S. 433 (Collins, Kennedy, Stabenow, Cassidy) 14 cosponsors**
- **H.R. 2573 (Sewell, Buchanan, Abraham) 28 cosponsors**
  - **Only permits adjustments after changes occur**
  - **2% max or phase-in required**
- https://p2a.co/zr0juwz
- **Proposed 2020 rule release any day: will drive upcoming advocacy**

Beyond PDGM

- **Maintenance Therapy and POC**
- **HHVBP**
- **HHCAHPS**
- **HHQRP**
- **Home Infusion Therapy**

Therapy and POC Updates

Therapy assistants may perform maintenance therapy

- **Proposed regulatory language only addresses PT assistants POC**
- **Revising requirements for payment**
- **§409.43 to read "… the home health plan of care must include those items listed in §484.60(a)that establish the need for service."**
- **POC must included items and services needed for coverage**
- **Missing items required at §484.60(a) not needed for coverage are best handled by surveys and not claims denials**

HHVBP

- **Total point score (TPS) and corresponding percentile ranking**
- **5th performance year (2020)**
- **Some time after Dec 1, 2021**

HHCAHPS

Propose to remove question #10

- **"In the last 2 months of care, did you and a home health provider from this agency talk about pain?"**
- **July 2020**

HHQRP

Remove Improvement in pain interfering with activity measure
- **Stop collecting Jan 1, 2021**
- **No impact on HHVBP**

Two New Measures:
Transfer of Health Information to the Provider-Post-Acute Care (PAC);
Transfer of Health Information to the Patient-Post-Acute Care (PAC).

Meaningful Measures/IMPACT Act
- **Promoting effective communication and coordination of care,**
- **Transfer of health information and interoperability**

Medications list:
- **Three questions – medication list provided at discharge and at transfer; route of transmission**

Denominator: Subsequent provider
- **The denominator is the number of Medicare Part A, Medicare Part B, Medicare Advantage (Part C) and Medicaid covered home health quality episodes ending in discharge/transfer to a short-term general hospital, a SNF, intermediate care, home under care of another organized home health service organization or hospice, hospice in an institutional facility, a swing bed, an IRF, a LTCH, a Medicaid nursing facility, an inpatient psychiatric facility, or a critical access hospital.**

HHQRP

Denominator: Patient/CG

- **The denominator for this measure is the number of Medicare Part A, Medicare Part B, Medicare Advantage (Part C)and Medicaid covered home health quality episode sending in discharge to a private home/ apartment (apt.), board/care, assisted living, group home, or transitional living.**

Numerator: The numerator is the number of home health quality episodes for which the OASIS indicated that at the time of discharge/transfer, the agency provided a current reconciled medication list to the subsequent provider or patient/ CG

HHQRP

Standardized Patient Assessment Data (SPADE)

- **(1) Functional status, such as mobility and self-care at admission to a PAC provider and before discharge from a PAC provider; (addressed with the GG items)**
- **(2) Cognitive function, such as ability to express ideas and to understand, and mental status, such as depression and dementia;**
- **(3) Special services, treatments, and interventions, such as need for ventilator use, dialysis, chemotherapy, central line placement, and total parenteral nutrition;**
- **(4) Medical conditions and comorbidities, such as diabetes, congestive heart failure, and pressure ulcers;**
- **(5) Impairments, such as incontinence and an impaired ability to hear, see, or swallow**
- **(6) Social Determinants**

- **2-5 Originally proposed in the 2018 HH rate update rule for reporting beginning in 2019, but not finalized.**

HHQRP

1. Functional status, such as mobility and self-care at admission to a PAC provider and before discharge from a PAC provider;

- **Collected from the GG function and mobility items**

2. Cognitive function and mental status

- **Brief Interview for Mental Status (BIMS)**
  - **Gateway question - followed by 7 additional to assess memory**
- **Confusion Assessment Method (CAM)**
  - **4 items to assess confusion and delirium**
- **Patient Health Questionnaire—2 to 9 (PHQ-2 to 9)**
  - **2 gateway questions followed by 7 addition question s to assess mood/depression**

HHQRP

3. Special Services, Treatments, and Interventions Data

- **Cancer Treatment: Chemotherapy (IV, Oral, Other**
- **Cancer Treatment: Radiation**
- **Respiratory Treatment: Oxygen Therapy (Intermittent, Continuous, High-Concentration Oxygen Delivery System)**
- **Respiratory Treatment: Suctioning (Scheduled, as Needed)**
- **Respiratory Treatment: Tracheostomy Care**
- **Respiratory Treatment: Non-Invasive Mechanical Ventilator (BiPAP, CPAP)**
- **Respiratory Treatment: Invasive Mechanical Ventilator**
- **Intravenous (IV) Medications (Antibiotics, Anticoagulants, Vasoactive Medications, Other)**
- **Transfusions**
- **Dialysis (Hemodialysis, Peritoneal Dialysis)**
- **Intravenous (IV) Access (Peripheral IV, Midline, Central line)**
- **Nutritional Approach: Parenteral/IV Feeding**
- **Nutritional Approach: Feeding Tube**
- **Nutritional Approach: Mechanically Altered Diet**
- **Nutritional Approach: Therapeutic Diet**

HHQRP

3. Special Services, Treatments, and Interventions Data (cont)

- **High Risk Drug Classification**
  - **6 classifications of drugs**
  - **Indicate if patient taking any high risk drugs and indication**

4. Medical Condition and Comorbidity Data

- **Pain Interference (Pain Effect on Sleep, Pain Interference With Therapy Activities, and Pain Interference With Day-to-Day Activities**)

5. Impairment Data

- **Hearing**
- **Vision**

HHQRP

Proposed New Category: Social Determinants of Health

6. Social Determinants of Health Data: To Inform Measures and Other Purposes(risk adjustment)

- **Race**
- **Ethnicity**
- **Preferred Language**
- **Interpreter Services**
- **Health Literacy**

- **Transportation**
  - **access to transportation**
- **Social isolation**

HHQRP

Time Frames

- **Collecting data elements**
  - **– January 2021**
- **Reporting HHQRP**
  - **– CY 2022**
- **Revised OASIS**

https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/Downloads/Proposed-Specifications-for-HH-QRP-Quality-Measures-and-SPADE.pdf

HHQRP

Recommendations:

- **– Stagger implementation**
  - **More iterations of OASIS**
- **– No less than six months before implementation to issue an OASIS draft**
- **– PRA waiver authority to expedite a final version**

OASIS Collection

Propose to expand the reporting of OASIS data used for the HH QRP to include data on all patients, regardless of their payer, in future rulemaking

- **Do you agree there is a need to collect OASIS data for the HH QRP on all patients regardless of payer?**
- **What percentage of your HHA's patients are you not currently reporting OASIS data for the HH QRP?**
- **Are there burden issues that need to be considered specific to the reporting of OASIS data on all HH patients, regardless of their payer?**
- **What differences, if any, do you notice in patient mix or in outcomes between those patients that you currently report OASIS data, and those patients that you do not report data for the HH QRP?**
- **Are there other factors that should be considered prior to proposing to expand the reporting of OASIS data used for the HH QRP to include data on all patients, regardless of their payer?**

Home Infusion Therapy Benefit

- **New benefit under Part B required by the 21st Century Cures Act**
- **New supplier designation – "Home infusion therapy supplier"**
- **Coverage for associated professionals services for infusion on a pump in the home**
- **Transition payment period 2019-2020**
- **Permanent program 2021**

Home Infusion Therapy

- **Benefit for beneficiaries receiving Infusion therapy (IV and subq.) via a pump that is an item of DME;**
- **Only certain infusion drugs are covered under Part B DME (antifungals, chemotherapy, inotropic and some pain medications, IGs)**
- **A qualified home infusion therapy supplier is defined as a pharmacy, physician, or other provider licensed by the state where service are provided.**
- **The professional services under the benefit Include:**
  - **Professional services (e.g. nursing)**
  - **POC established and reviewed by a physician**
  - **Training and education(vascular access site, medications administration and disease management)**
  - **Remote monitoring**
  - **availability 24/ 7**
  - **Patient must be under the care physician, NP, or PA**
- **Intention is to instruct patient /CG on safe administration and care, same as with HHS**
- **Accredited as a infusion therapy supplier by an AO approved by CMS (many requirements for the AOs)**
- **Payment for days when services are provided in home**

Home Infusion Therapy

Coordination with Home health

- **Professional service associated with this new home infusion therapy benefit must be provided by the home infusion therapy supplier under Part B, not home health (2021)**
- **If a beneficiary is receiving HHS by agency that is also a qualified home infusion supplier, CMS will permit the HHA to bill for the infusion therapy services separately under new Part B home infusion benefit (2021)**
- **During transitional period(2019-20) HH continues to provide infusion therapy for patients under a HH POC**

Home Infusion Therapy

Policies in 2021

- **Patient notification by the physician on site of care options (physician office, outpt, home)**
- **POC**
  - **frequency of physician review**
  - **Specificity of orders related to infusion therapy**
- **Payment**
  - **Rates based on 3 drug categories**
  - **Charts with the drugs include under each category**
  - **Rates for each category**
  - **First visit higher payment, similar to the LUPA add-on**

Home Infusion Therapy

- **AO standards –CMS announced the receipt of the JC application**
  - **Standards and survey process**
  - **AOs must apply by February 2020**
- **Unclear how HHAs accredited home infusion therapy suppliers will coordinated with DME/Pharmacies accredited home infusion therapy suppliers**

Home Infusion Therapy

Concerns: Beneficiaries

- **20% co-pay for professional services**
- **May limit benefits for homebound patients**
- **Quality of care related to two entities providing care**

https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Home-Infusion-Therapy/Overview.html

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Home Infusion Therapy

- **Permit agencies to bill under a TOB 34x rather than enroll as a Part B supplier**
- **Legislative action**

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Upcoming Webinars

Private Duty: Current Trends in Regulatory & Legal Issues: HIPAA and Texting
Thursday, July 25, 2019 | 2:00-3:30 PM EDT

PDGM: Clinical Management of PDGM Part II
Tuesday, August 6, 2019 | 2:00-3:30 PM EDT

PDGM: Electronic Medical Record Readiness
Thursday, August 15, 2019 | 2:00-3:00 PM EDT

PDGM: Coding In Depth
Thursday, September 12, 2019 | 2:00-4:00 PM EDT

PDGM: Billing In Depth
Thursday, September 26, 2019 | 2:00-4:00 PM EDT

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Contact Information

William Dombi
President
NAHC
wad@nahc.org
202.547.7424

Mary Carr
VP, Regulatory Affairs
NAHC
mkc@nahc.org
202.547.7424

