Sunday, October 13, 2019  2:50 PM

102  Hospice Regulatory Update, Part I
Session 102: Hospice Regulatory Update, Part I
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Today’s Agenda – Regulatory Update Part I

• FY2020 Payment Update, Wage Index, Aggregate Cap
• Rebasing / Rebalancing of Payments by Levels of Care
• FY2020 Payment Rates
• NPPs in Hospice Care
• Disposal of Controlled Substances
• OIG: Hospice Survey Performance
• Medicare Advantage and Hospice
FY2020 PAYMENT UPDATE, WAGE INDEX, AGGREGATE CAP

FY 2020 Payment Update

<table>
<thead>
<tr>
<th></th>
<th>Proposed</th>
<th>FINAL</th>
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<tbody>
<tr>
<td>Hospital Market Basket</td>
<td>3.2 percent</td>
<td>3.0 percent</td>
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<tr>
<td>ACA Productivity adjustment</td>
<td>0.5 percent</td>
<td>0.4 percent</td>
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<tr>
<td>Net FY 2020 Annual Percentage Update</td>
<td>2.7 percent</td>
<td>2.6 percent</td>
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Wage Index

- **FINALIZED**: Elimination of one-year lag in hospital wage index data used for hospice payments
  - Immediate transition to FY2020 values
  - No net change overall but providers impacted differentially
  - Potential PROs: Bases hospice payments on same wage data as other providers in marketplace
  - CONs: Less planning time; loss of FY2019 values could negatively impact some hospice entities

Aggregate Cap

- Aggregate Cap value: previous year’s Cap, updated by hospice payment update
- **FINALIZED**: FY 2020 Aggregate Cap is $29,964.78 (proposed $29,993.99)
Rebasing of Hospice Payments

- Ongoing CMS analysis of daily care costs by level of care
- Costs estimated using:
  - Data from FY 2017 cost reports
    - Eliminate outliers and cost reports that failed edits
    - Exclude provider-based hospice data
    - Eliminate regional wage differences
  - Claims data
- Rebasing subject to budget neutrality
Rebasing: FY2019 Estimated Costs to Payments

FY2020 Payment Rates – Impact of Rebasing

<table>
<thead>
<tr>
<th></th>
<th>FY2019 Medicare Rates Updated by FY2020 APU -- ESTIMATED FY2020 Rates WITHOUT REBASING</th>
<th>FY2020 FINAL MEDICARE PAYMENT RATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>RHC days 1 - 60</td>
<td>$201.35</td>
<td>$194.50</td>
</tr>
<tr>
<td>RHC 60+</td>
<td>$158.22</td>
<td>$153.72</td>
</tr>
<tr>
<td>CHC</td>
<td>$1,023.31</td>
<td>$1,395.63</td>
</tr>
<tr>
<td>IRC</td>
<td>$180.58</td>
<td>$450.10</td>
</tr>
<tr>
<td>GIP</td>
<td>$777.78</td>
<td>$1,021.25</td>
</tr>
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NAHC Concerns

- Quality/amount/type of data used
- Impact widely variable
- Variability in costs for inpatient care based on mode of delivery
- Higher rates “passed through” to contracted facilities
- Incentivize abuses?

Takeaways – Rebasing

- Determine impact on your hospice
- Revisit contracts for GIP and Respite
- Consider incentive to provide more GIP/Respite/CHC
- Examine processes for ordering, documenting higher levels of care
- Adequate chart of account/accurate cost reporting
  - KNOW YOUR COSTS by level of care
Future Issues

• Strong potential for adjustment to labor/non-labor
• More rebasing/recalibration in the future?
• Rebasing of RHC to costs without budget neutrality (requires legislative authority)?
• Increased scrutiny?

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FY 2020 Payment Rates – FINALIZED

FY 2020 Hospice RHC Payment Rates/Medicare and Medicaid

|-------------|-------------------------------------|----------------------------------------|-------------------------|-----------------------|
| RHC (days 1-60) | $190.91 | • SIA Budget Neutrality Factor  
• Wage Index Standardization Factor**  
• FY 2020 Hospice Payment Update of 2.6 percent | $194.50 | $194.75 |
| RHC (days 61+) | $150.02 | | $153.72 | $153.93 |

*FY 2019 RHC payment rate for days 1-60: = $196.25 (* 0.9728 = $190.91)
FY 2019 RHC payment rate for days 61+ = $154.21 (* 0.9728 = $150.02)
**Transition from FY 2019 Wage Index to FY 2020 Wage Index without 1-Year Lag
**FY 2020 Payment Rates – FINALIZED**

**FY 2020 Hospice CHC, IRC, and GIP Payment Rates/Medicare and Medicaid**

|-------------|------------------------|-----------------------------------------------|------------------------|------------------------|
| CHC for 24 hours | $1,363.26 ($56.80 = hourly rate) | *Wage Index Standardization Factor*  
* FY 2020 Hospice Payment Update | $1,395.63 ($58.15 = hourly rate) | $1,396.17 ($58.17 = hourly rate) |
| IRC | $437.86 | $450.10 | $473.79 |
| GIP | $992.99 | $1,021.25 | $1,021.25 |

*Transition from FY 2019 Wage Index to FY 2020 Wage Index without 1-Year Lag*
NPPs in Hospice

- 2018 Bipartisan Budget Act – PAs may serve as hospice attending physicians eff. 1/1/2019
- PROPOSED: CY2020 Physician Payment rule – Hospices may accept drug orders from PA attendings (non-hospice employed)
- Also seeking input on role of NPPs in hospice
  - Supervision, reporting, core service?
- PA completion of face-to-face requires legislative action
Disposal of Controlled Substances

- P.L. 115-271 – SUPPORT Act – Certain hospice medical or nursing staff may dispose of unused controlled substances in the home under specific circumstances
  - No requirement for registration or “destruction”
  - Requirements for training programs, documentation, policies and procedures to patient/family
  - DEA will change existing disposal regulations to reflect change
  - State law may be more stringent
    - Need to check state household hazardous waste requirements, particularly sewering
- EPA Hazardous Waste Pharmaceutical Regulations – Effective August 21, 2019
  - Applies to hospice IPU – hazardous waste pharmaceuticals may not be sewer
    - State laws vary

OIG HOSPICE SURVEY PERFORMANCE
OIG Hospice Survey Performance

- July: Pair of HHS OIG reports on hospice survey findings
  - **Hospice Deficiencies Pose Risks to Medicare Beneficiaries** - broad analysis of deficiencies/complaints (2012-2016)
  - **Safeguards must be Strengthened to Protect Medicare Hospice Beneficiaries from Harm** -- 12 case studies examining worst examples of patient harm with no ramifications to providers

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OIG Hospice Survey Performance

- Survey findings:
  - 87% of hospices had at least one deficiency during the five-year period
  - Annually, 69 to 74% had at least one deficiency; 20% condition level
  - 2016 surveys: average deficiencies – 4 per survey
  - Common citations:
    - care planning
    - aide services
    - patient assessments
OIG Hospice Survey Performance

- **Complaints filed:**
  - Over 5 years, one-third of hospices (1,574) had complaints filed; 32% of substantiated (Annually: 11 to 14% of hospices have complaints filed)

<table>
<thead>
<tr>
<th>HOSPICES with Complaints Filed (2012 – 2016)</th>
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<tbody>
<tr>
<td>Hospices with Complaints filed</td>
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<tr>
<td>Hospices with Multiple Complaints</td>
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<tr>
<td>Hospices with Severe Complaints</td>
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OIG Hospice Survey Performance

- **Complaint findings:**
  - One-half of complaints filed the OIG classified as SEVERE
  - 35% of those were substantiated (400)

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<tr>
<th>COMPLAINTS (2012 – 2016)</th>
<th>Filed</th>
<th>Substantiated</th>
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<tr>
<td>Total complaints</td>
<td>3686</td>
<td>1190</td>
</tr>
<tr>
<td>Severe complaints</td>
<td>1143</td>
<td>400</td>
</tr>
</tbody>
</table>
OIG Hospice Survey Performance

• For 2016, OIG Identified 313 “Poor Performers” having EITHER:
  – One serious deficiency (condition level) OR
  – One substantiated severe complaint
• Many of these had other deficiencies in previous years

OIG Hospice Survey Performance

• OIG Recommendations:
  – Survey findings: improve data reporting; authorize publication of AO data; publicize survey data/ survey reports (State and AO)
  – Provide education on common deficiencies
  – Increase oversight of hospices with histories of severe deficiencies
  – Expand enforcement remedies
  – Monitor Immediate Jeopardy citations
  – Improve complaint process for ease of use (online?)
  – Abuse and neglect: address staff education, reporting and oversight of hospice activities
OIG Hospice Survey Performance

• NAHC Recommendations:
  – **Expand Educational Support and Increase Oversight to Poor Performing Hospices**
    • Annual publication of top deficiencies with examples, guidance on correction
    • Allow full access to surveyor training
    • Increase frequency for deficient providers (new, poor performers)
    • Institute targeted educational supports (QIO) for poor performers
    • Establish intermediate remedies (temporary management, payment suspension, directed plans of correction, directed in-service)
    • Second phase of remedies – CMPs – if necessary (reinvest in hospice-focused activities)

OIG Hospice Survey Performance

• NAHC Recommendations:
  – **Additional Patient/Family Support**
    • Explore potential demonstration of hospice-focused ombudsman program
      – Address patient advocacy and complaint support
      – Coordinate with other entities receiving complaints and conducting complaint follow-up
OIG Hospice Survey Performance

- NAHC Recommendations:
  - **Increased Transparency**
    - Create uniform format for reporting of survey findings (AO and SA)
    - Create a summary format for public display of findings on Hospice Compare (summary data focused on key compliance elements)
    - Provide full availability of survey reports with link from Hospice Compare once uniform format is available

- **Improve Quality/Consistency of Survey Process**
  - Evaluate surveyor actions (within states, between states; AO surveyor action on federal CoPs)
  - Evaluate Regional Office interpretations and applications of policy
  - Conduct annual audit of survey accuracy and consistency
  - Create and ensure consistent training of all surveyors, test their knowledge
  - Achieve greater consistency in interpretations of CoPs, IJ designation (and intermediate remedies if created)
  - Provide SA authority to contract with AOs, if needed, to ensure surveys are completed timely
Hospice Survey Performance

• Looking forward –
  – Legislative action – House and Senate interest
  – Administrative action

Hospice and Medicare Advantage

• January 2018
  – CMS announced intent to expand VBID MA model to allow coverage of hospice as part of MA beginning CY2021
    • Address fragmentation, coverage confusion
    • Improve access to hospice care
    • Allow for innovation
• April 2018 Webinar
• Concerns
  – Impact on hospice benefit
  – Lack of means for measuring impact
  – MA model generally relies on controlling utilization, not value
  – Potential nationwide carve-in without Congressional approval
Contact Information

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