



FEDERAL HEALTH POLICY STRATEGIES

FROM: FHP Strategies

TO: **Partnership for Quality Home Healthcare**

DATE: November 1, 2023

RE: Calendar Year 2024 Home Health Prospective Payment System Rate Update and Home Infusion Therapy Services Payment Update (CMS-1780-F); Final Rule -- **Key Policy Proposals**

Today, the Centers for Medicare & Medicaid Services (CMS) released the *Calendar Year (CY) 2024 Home Health Prospective Payment System Rate Update and Home Infusion Therapy Services Payment Update Final Rule*. As noted below, the rule contains final policies related to the Medicare home health benefit for CY 2024 on payment and quality related programs. **The Final Rule will be effective on January 1, 2024.**

Major Provisions of the Proposed Rule

- **Key Take Aways:** The CY 2024 Final Rule includes significant reductions in home health payments. The Final Rule includes some mitigation of the proposed -5.65 percent downward permanent adjustment to the 30-day payment rate resulting in an estimated +0.8 percent overall impact for home health providers in CY 2024. However, CMS still applied a reduction of -2.89 percent that eliminates much of the benefit of the annual payment update and continues a policy that will result in further significant payment reductions in future years.
- **Budget Neutrality/Permanent and Temporary Adjustments:** The provisions of the law governing implementation of the Patient-Driven Groupings Model (PDGM) required that the change to the new home health payment model be budget neutral – meaning that, based on differences in assumed versus actual provider behavior, estimated aggregate expenditures under the new system (PDGM) should be the same as estimated aggregate expenditures that would have otherwise been made by Medicare under the former 153 group system in effect prior to 2020. By law, CMS is required conduct an annual process to examine payments for years 2020 through 2026 to determine whether payments have been budget neutral. As part of this process, CMS proposed a -5.65 percent permanent adjustment for CY 2024. CMS had already applied a -3.925 percent permanent adjustment to the 30-day payment rates for CY 2023. CMS is also required to apply temporary adjustments for past periods account for over or under payments and ensure budget neutrality retrospectively.

For CY 2024, CMS provides some mitigation of the proposed payment reduction and is finalizing a further -2.89 percent permanent adjustment to the home health payment 30-day payment rates to ensure budget neutrality in aggregate payments moving forward. CMS acknowledges in the Final Rule that taking a large permanent adjustment in a single year may be burdensome for some providers and thus it is using its discretion to implement the adjustment in a time and manner the agency determines appropriate. In addition, CMS notes that the total permanent adjustment it could have applied is -5.7791 percent, an amount that is slightly revised from the Proposed Rule based on further analysis and updated data from 2022. The -2.89 percent adjustment is half of that revised total adjustment amount.

While CMS determined the need for temporary adjustments for CY 2020 through CY 2022 totaling approximately \$3.5 billion, the Agency did not propose to make these adjustments and, therefore, the Final Rule does not apply any. CMS indicates that it will address temporary adjustments in future rulemaking. However, CMS notes that by not applying the full permanent adjustment in CY 2024, the total dollars subject to future temporary adjustments will increase.

- ***Routine Annual Payment Update:*** The Final Rule provides for an annual payment update of 3.0 percent which is based on a market basket increase of 3.3 percent minus a 0.3 percent productivity adjustment. This is a slight improvement compared to the Proposed Rule (+0.3 percent). As noted above, the positive benefit of the annual update is offset by the decrease associated with the CY 2024 permanent adjustment. In addition, despite a -5.2 percent cumulative compounded market basket forecast error for CY 2021 and CY 2022, CMS did not propose nor finalize a correction to ensure the accuracy of the home health payment rates moving forward, as stakeholders had urged in comments.
- ***Impact Analysis:*** According to the Final Rule's economic impact analysis, the overall impact related to the changes in payments under the home health PPS for CY 2024 is estimated to be +\$140 million (+0.8 percent). The \$140 million increase in estimated payments for CY 2024 reflects the effects of the proposed CY 2024 home health payment update percentage of 3.0 percent (\$525 million increase), an estimated 2.6 percent decrease that reflects the effects of the permanent behavior adjustment (\$455 million decrease) and an estimated +0.4 percent increase that reflects the effects of an updated outlier fixed dollar loss threshold (\$70 million increase). We note that the CY 2023 30-day payment amount of \$2,010.69 increases to \$2038.13 in CY 2024 under the Final Rule policies.
- ***Case Mix Weights/ Low Utilization Payment Adjustments (LUPAs)/Outliers:*** For CY 2024, CMS is finalizing its proposals to recalibrate the PDGM case-mix weights and update the LUPA thresholds using the latest available data from CY 2022 consistent with its past practice. CMS notes that it believes the data from CY 2022 is best data to reflect PDGM utilization and patient resource use for CY 2024. In addition, this rule finalizes an update to the CY 2024 fixed-dollar loss ratio (FDL) of 0.27 for outlier payments (so that outlier payments as a percentage of estimated total payments do not to exceed 2.5 percent, as required by law).
- ***Wage Index:*** For CY 2024, CMS is finalizing a routine update to the wage index based on its existing policy and regulations. CMS will use the FY 2024 pre-floor, pre-reclassified hospital wage index data as the basis for the CY 2024 home health wage index. This is based

on FY 2020 hospital cost report data. In addition, last year, CMS finalized a permanent, budget neutral approach to smooth year-to-year changes in the home health wage index by applying a permanent 5 percent cap on decreases in an area's wage index value from year to year. This policy remains in effect for CY 2024 and future years.

- ***Rebasing of Home Health Market Basket:*** CMS is finalizing a proposed update to the home health market basket index used to update payment rates annually based on more recent data. CMS had proposed to rebase and revise the 2016-based home health market basket cost weights to a 2021 base year reflecting the 2021 Medicare cost report data submitted by freestanding home health providers. CMS provides a detailed description of the methodology it used to develop the Final 2021-based home health market basket. The final methodology for the 2021-based home health market basket is generally similar to that used for the 2016-based market basket and CMS provides data (See Table B22 of the Final Rule) showing the differences historical and forecasted annual changes between the 2016 and 2021-based market baskets.

Notably, this change to use of 2021 cost data also results in a reduced "Labor Share" (74.9 percent compared to the current labor share of 76.1 percent). This impacts the application of the wage index and resulting payments to providers. For example, providers in high wage areas may see slightly reduced payments as a result of their (higher) wage indices being applied to a slightly smaller portion of the payment rate. Finally, despite significant forecast errors in the market basket for 2021 and 2022 (-5.2 percent compared to actual home health resource price increases), CMS stood by its existing approach.

- ***Home Health Value-Based Purchasing (HHVBP):*** In the CY 2022 rulemaking cycle, CMS finalized a national expansion of the HHVBP beginning in CY 2023. For CY 2024, CMS proposed several updated policies, including the codification of previously finalized measure removal factors (discussed in last year's rule), changes to the applicable measure set, updating the Model Baseline Year from CY 2022 to CY 2023 starting in the CY 2025 performance year, and an amendment to the appeals process for the expanded HHVBP Model. CMS is finalizing these changes as proposed.
- ***Quality Reporting Program (QRP):*** CMS finalized policies in several areas related to the QRP for CY 2024. These include the codification of the previously finalized 90 percent Outcome and Assessment Information Set (OASIS) data completion threshold in the Code of Federal Regulations (CFR), the public reporting of four measures, and removal of certain other measures.
- ***Aide Services:*** In the Proposed Rule, CMS solicited comments regarding access to home health aide services for beneficiaries receiving care under the home health benefit. The Final Rule includes a discussion of the comments received. CMS notes that the comments provided by stakeholders will help guide future policy development and can assist in addressing barriers and fostering coordination under the home health benefit for future regulatory updates.
- ***IVIG Home Infusion/Hospice/Other:*** The Final Rule also finalizes policies related to the new Medicare Home IVIG Infusion Benefit required by the Consolidated Appropriations Act, 2023 which is effective on January 1, 2024; a hospice informal dispute resolution and special

focus program; and other provisions related to Medicare benefits for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS).

*We hope you find this memorandum helpful.
If you have any questions or comments, please let us know.*