

Protests of NAUH, Others Bring Changes to FY 2005 Medicare Regulation

Protests from NAUH and others have led the Centers for Medicare & Medicaid Services (CMS) to reconsider several aspects of its proposed Medicare inpatient PPS regulation for FY 2005.

In particular, CMS has withdrawn several proposals that would have hurt private, non-profit, urban safety-net hospitals.

Under the regulation originally proposed, many urban hospitals would have had their Medicare wage index reduced immediately. Now, CMS will give most of those hospitals transition periods of varying lengths, depending on the circumstances surrounding their reclassification.

In addition, the Medicare outlier threshold for FY 2005, originally proposed to rise from \$31,000 to \$35,085, will instead be reduced to \$25,800.

Finally, CMS's draft regulation called for limiting full Medicare reimbursement for long-term-care hospitals located within other hospitals to the first 25 percent of patients coming from the host hospital. While reiterating its belief that this issue must be addressed, CMS dropped its proposal for FY 2005 and called for additional research on the issue.

NAUH sent five separate letters to CMS, protesting various aspects of the proposed regulation. In one of those letters, NAUH executive director Ellen Kugler cited seven specific instances of CMS preferential treatment that favored rural hospitals.

"This is a continuing trend," Kugler notes. "Congress and CMS are constantly looking for new ways to help rural hospitals even though significant evidence points to urban hospitals being in far greater financial distress than rural hospitals."

Among the benefits the final regulation conferred upon rural hospitals are an increased standardized amount only for hospitals in rural and small urban areas; changing the labor-

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Key Senators Question CMS on Freelance Policy-making

Amid reports of CMS negotiating global spending caps and changes in core Medicaid benefits with individual states in exchange for Medicaid waivers, Senate Finance Committee chairman Charles Grassley (R-IA) and ranking minority member Max Baucus (D-MT) have written to CMS administrator Dr. Mark McClellan demanding an explanation for such activities.

In their letter of June 16, Senators Grassley and Baucus express concern that CMS may be making new Medicaid policy without consulting Congress. "Press reports indicate that a new wave of waiver proposals are being developed that could dramatically reshape the financing and entitlement guarantees established by law in the Medicaid program," they wrote, adding that this is being done despite "no official statement of CMS policy on such waiver proposals or any official recognition that changes to Medicaid of this magnitude are under consideration."

Senators Grassley and Baucus also wrote that "These proposals, and similar ones, if approved and implemented, could potentially make fundamental changes to the Medicaid program in ways that Congress did not anticipate or intend. We strongly believe that, over time, these changes could have far reaching

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Entitlement Caps Avoided

Several efforts to impose hard caps on federal entitlement spending have failed – for this year.

During May and June, several bills were proposed in Congress that would have limited the future growth of Medicare and Medicaid spending. One such bill, for example, would have resulted in approximately \$800 billion in reduced Medicare spending and \$400 billion in reduced Medicaid spending over the next ten years – potentially devastating blows to urban hospitals. This particular bill, offered as an amendment to a budget process bill, was rejected by the House.

There was little chance that Congress would risk alienating constituents with such cuts during an election year, but the possibility of entitlement caps is expected to arise again next year – when there are no federal elections. ♦

The National Association of Urban Hospitals advocates for adequate recognition and financing of the nation's private, urban, safety-net hospitals, which serve America's needy urban communities.

For further information about the Association, or the information presented in this document, please contact Ellen Kugler at 703-444-0989.

FY 2005 Medicare Regulation, Continued, related share of Medicare payments in a manner that benefits rural hospitals; raising Medicare DSH limits only for rural and small urban-area hospitals; lowering the criteria to qualify as a critical access hospital; giving rural hospitals preference in the reallocation of unused medical residency positions; and indicating a desire to revisit the occupational mix issue because preliminary results did not favor rural hospitals as much as anticipated.

“We’re very pleased that CMS has chosen to reconsider its position on some of these issues,” Kugler said. “All across the country there are urban safety-net hospitals struggling to find ways to continue serving their communities. While none of these changes will make their lives easier, at least they won’t make a bad situation worse – and they buy us time to seek solutions.” ♦

Freelance Policy-making, Continued implications and debate over these changes should include the Congress and relevant stakeholders.”

At a time when many states are seeking to reduce the growth of their Medicaid spending, this is a crucial issue for urban hospitals, which can afford neither artificial restraints on Medicaid spending nor a system of reviewing attempts to impose such restraints that ignores the input of their federal elected representatives. ♦

Congress Deals With Budget Issues

While the House is working fairly effectively on its appropriations bills and some House appropriations subcommittees have even tentatively finished their work, progress in the Senate was virtually non-existent when Congress adjourned for the summer.

Still, the House has managed to address a few issues of importance to urban hospitals.

Hospitals that serve large numbers of poor patients have already come out on the losing end of one budget battle with the demise of the Community Access Program. When the administration proposed providing only \$10 million for FY 2005 – down from \$83.6 million this year – Congress decided to eliminate the program entirely and shift its resources to community health centers.

The House Appropriations Committee, meanwhile, voted to approve a five percent increase in hospital bioterrorism preparedness funds, raising that total to a proposed \$543 million for FY 2005.

The House committee also voted to impose a one-year moratorium on the implementation of the 75% rule for rehab hospitals. Technically, the committee called for withholding funding to implement the rule until one year after the Institute of Medicine completes a study on the

potential impact of the proposed change in how Medicare reimburses rehab hospitals. This measure will still face major obstacles in Congress, especially in the Senate, this fall.

The full House and Senate still must act on all these measures, and with Congress adjourned for the summer, it will not do so until at least some time in September. ♦

Congress Explores Non-Profit Status

In a series of hearings, Congress is exploring the non-profit status of some organizations and considering what they have done, and what they must do, to earn that non-profit status. Particular attention has focused on the hospital industry amid a series of controversies across the country involving the amount of charity care that hospitals provide and how some hospitals charge and pursue payment from uninsured patients.

Prior to these hearings, one bill was proposed in the House that would limit hospitals’ maximum charges for uninsured patients to 125 percent of Medicare rates. While the House is considered unlikely to act either on this bill, the Hospital Billing Fairness Act of 2004 (H.R. 4092), or on this issue in 2004, Congress probably will revisit the matter of hospital non-profit status and billing and bill-collecting practices next year. Amid a flurry of activity within the hospital industry to address this issue, some members of Congress would like to wait until next year to see what the industry does before considering whether to take up this issue again. ♦

See Impact of Occupational Index

NAUH has performed a city-by-city analysis of the impact of adjusting hospitals’ Medicare wage index according to occupational mix, as proposed recently by CMS. To learn how this new approach might affect your city and hospital, please contact us by e-mail at ellen@nauh.org. ♦

CMS Asks NAUH for Help

CMS has asked NAUH to urge urban safety-net hospitals to participate in the agency’s effort to combat human trafficking and help its victims. The federal government estimates that nearly 20,000 men, women, and children enter the U.S. as slaves every year. Such individuals, HHS believes, are most easily identified when they present themselves in hospital emergency rooms as victims of physical abuse. For further information, call HHS’s anti-trafficking hotline at 888-373-7888 or contact NAUH’s office at 703-444-0989 for further information. ♦

For further information about the news and views presented in NAUH Update, or to learn about membership, please contact Ellen Kugler, executive director, at 703-444-0989.