Upcoming changes, CMS final rules: Reimbursement update

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Learning objectives

- Gain an understanding of CMS CY22 Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System Proposed Rule
- Learn about proposed changes to the CMS CY22 Physician Fee Schedule and other Part B payment policies
- Review CMS FY22 Final Rules for Inpatient Prospective Payments (IPPS)
- Gain insight on Uncompensated Care and common S-10 audit issues
- Recap CMS FY22 Final Rules for Inpatient Psychiatric Facilities (IPF) & Inpatient Rehab Facilities (IRF) Prospective Payment Systems

CMS CY22 OPPS & ASC Payment System Proposed Rule

Released July 19, 2021. Public comment period ends September 17, 2021.

Update Factors*	Final FY21	Proposed FY22
Hospital Market Basket	2.4%	2.5%
Economy wide productivity adjustment	(.0%)	(.2%)
OPPS/ASC Payments rates	**2.4%**	**2.3%**

*Hospitals meet applicable quality reporting requirements.

CMS CY22 OPPS & ASC Payment System Proposed Rule

- Modifications to increase Hospital Price Transparency compliance beginning January 1, 2022.
  - Increases to Minimum Civil Monetary Penalty (CMP)
  - If using an online price estimator tool, it must provide an estimate that takes the individual's insurance information into account. The estimate must reflect the amount the hospital will be paid for the shoppable service.
- Reversal of phased elimination of the Inpatient Only (IPO) list and relaxation of ASC covered procedures list criteria
- No changes proposed to Medicare payment for 340B Drug Discount Program

Minimum Civil Monetary Penalty (CMP)

<30 BEDS

FEE: $300/day

>30 BEDS

FEE: $10/bed/day

Maximum daily dollar amount of **$5,500**

Full calendar year of noncompliance

MIN – $109,500 / hospital

MAX – $2,007,500 / hospital

CMS CY22 OPPS & ASC Payment System Proposed Rule

- Request information on new provider type, Rural Emergency Hospitals (REH), effective January 1, 2023.
  - Established by §125 of Consolidated Appropriations Act of 2021, REH are hospitals that convert from either a CAH or a rural hospital <50 beds with a limited scope of services offered and an annual per patient average of 24 hours or less
  - Paid OPPS+5% plus additional monthly subsidy amount based on the difference between average payments to CAHs in 2019 vs. estimated payments if they had been paid under PPS, increase annually by the hospital market basket increase
- Radiation Oncology (RO) Model to begin on January 1, 2022 with 5 year performance period.
  - Pay a site-neutral, 90-day episode-based payment for specified professional and technical radiation therapy services furnished to Medicare fee-for service (FFS) beneficiaries diagnosed with certain cancer types.
  - Excluded providers: CAHs, ASCs, PPS-exempt Cancer Hospital, Freestanding RT center, HOPDs that furnish RT only in VT, Maryland, or US Territories

CMS CY22 Physician Fee Schedule Proposed Rule

- Expand telehealth services for mental health visits to include audio-only visits
  - Must be due to beneficiary choice or limitation
  - Requires in-person visit no more than 6 months before telehealth visit and at least once every 6 months after
- Allow certain telehealth services to remain eligible for reimbursement beyond the end of the PHE through 2023
- Refine policies for split (or shared) E/M visits, critical care services, and services furnished by teaching physician involving residents.
  - Split E/M Visit provision proposes that the practitioner who provides the substantive portion of the visit would bill for the visit

Update Factors*	Final CY21	Proposed CY22
PFS Conversion Factor	34.89%	33.58%

*PFS conversion factor reflects the statutory update of 0.00 percent and the adjustment necessary for changes in relative value units and expenditures.

CMS CY22 Physician Fee Schedule Proposed Rule

- Revise *de minimus* standard established for services provided by Physical Therapy Assistants (PTA) and Occupational Therapy Assistants (OTA)
  - Allow a timed service to be billed without the CQ/CO modifier in cases when the PT/OP meets the 8-minute rule without the time provided by the PTA/OTA.
- Provisions proposed to enhance the abilities of RHCs and FQHCs to furnish care to underserved Medicare beneficiaries
  - Reimburse mental health visits furnished via real-time telecommunication technology in the same way as in-person visits.
  - Pay for attending physician hospice services when provided by FQHC/RHC-employed physician, nurse practitioner, or physician assistant.
- CMS proposes changes to the Medicare Shared Savings Program (MSSP) including the quality measures participants report.

Polling question

How much do you estimate spending annually in order to comply with the Hospital Price Transparency Rule?

A. I plan to pay the penalty

B. Less than $100,000

C. $100,000 - $300,000

D. Greater than $300,000

E. Rule doesn't apply to me

CMS FY22 Hospital Inpatient Prospective Payment System (IPPS) Final Rule

Update Factors*	Final FY21	Final FY22
Market basket update	2.9%	2.7%
Economy wide productivity adjustment	(0.0%)	(0.7%)
Required by legislation	0.5%	0.5%
Rate increase factor	**3.4%**	**2.5%**

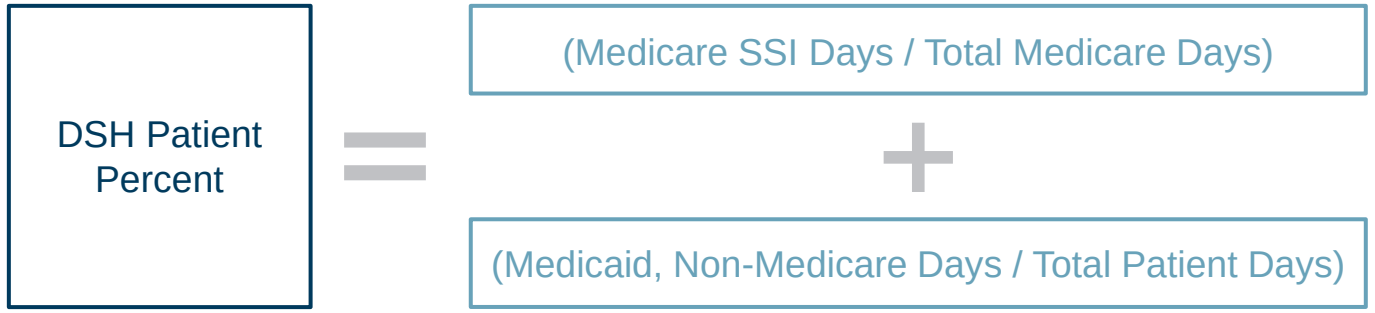
*Based on general acute care hospitals paid under IPPS that successfully participate in the Hospital Inpatient Quality Reporting (IQR) Program and are meaningful electronic health record (EHR) users.

CMS FY22 Hospital Inpatient Prospective Payment System (IPPS) Final Rule

- Repeals the requirement to report median payer-negotiated rates for Medicare Advantage plans.
- Cost-based MS-DRG relative weight methodology will continue to set Medicare payment rates for inpatient stays for FY2024 and subsequent fiscal years.
- CMS will require state Medicaid provider enrollment systems to allow valid enrollments from all Medicare providers, even if out of state, to process cost sharing claims for services furnished to dual eligible individuals.
- CMS estimates to distribute $7.2 billion in uncompensated care payments for FY2022 which is a decrease of $1.1 billion from FY2021. The data on uncompensated care costs from Worksheet S-10 of hospitals FY2018 cost reports will be used to distribute the funds.

CMS FY22 Hospital Inpatient Prospective Payment System (IPPS) Final Rule – DSH/Uncompensated Care

- Effective for discharges occurring on or after FY 2014, hospitals will receive 25 percent of the amount they previously would have received under the current statutory formula for Medicare DSH.



- The remainder, equal to 75 percent of what otherwise would have been paid as Medicare DSH, will become available to hospitals in the form of uncompensated care payments, after the amount is reduced for changes in the percentage of individuals that are uninsured.

CMS FY22 Hospital Inpatient Prospective Payment System (IPPS) Final Rule – Uncompensated Care

Each hospital's uncompensated care payment is the product of three factors:

1

75 percent of the estimated DSH payments that would otherwise be made under the old DSH methodology (section (d)(5)(F) of the Social Security Act)

2

1 minus the percent change in the percent of individuals under the age of 65 who are uninsured (minus 0.1 percentage points for FY 2014, and minus 0.2 percentage points for FY 2015 through FY 2017)

3

A hospital's amount of uncompensated care relative to the amount of uncompensated care for all DSH hospitals expressed as a percentage

CMS FY22 Hospital Inpatient Prospective Payment System (IPPS) Final Rule – Uncompensated Care

- S-10 audits are conducted for modified methodology for computing the Medicare Disproportionate Share Hospital (DSH) adjustment. As of FY18 the S-10 data is used in the DSH uncompensated care payment calculation (Factor 3).
  - Uncompensated Care does not include bad debt reimbursed by Medicare, courtesy allowances, and discounts given to patients that are not included in the Hospitals Charity Care or Financial Assistance policy.
  - Charity Care Charges are the actual charge amounts except for physician and other professional services.
    - Written off during the Cost Reporting period.
    - Charges for non-covered services can be included if it is noted in the Charity Care policy.
    - Charity Care or Financial Assistance policy follows CMS Pub 15-1 section 312 for determining a patient indigent.
    - If patients do not meet the charity care or financial assistance policy then they are not allowable.

Polling question

Of the 3 Factors that determine UCC, which one do hospitals have influence over?

A. Factor 1

B. Factor 2

C. Factor 3

D. None of the above

CMS FY22 Hospital Inpatient Prospective Payment System (IPPS) Final Rule

- Approve 19 technologies that applied for new technology add-on payments. New technology add-on payments will be approximately $1.5 billion.
- A five -year extension for each of the Rural Community Hospital Demonstration and FCHIP Demonstration.
- New measures are being implemented for Hospital IQR Program. Hospitals that do not submit quality data or fail to meet all Hospital IQR Program requirements are subject to a one-fourth reduction in their annual IPPS payment.
- Finalizing changes to existing EHR certification requirements. Beginning of CY2023 reporting period/FY2025 payment determination, hospitals are to use EHR technology that has been updated with 2015 Edition Cures Update and the technology supports the reporting requirements for all available eCQMs.

CMS FY22 Inpatient Psychiatric Facility (IPF) PPS Final Rule

- CMS estimates total payments to IPFs to increase by 2.1% or $80 million in FY 2022 related to IPF payments in FY 2021.
- IPF PPS Federal per diem base rate from $815.22 to $832.94.
- For IPFs that did not send quality reporting data under IPFQR for FY2022. The 0% update and wage index budget neutrality factor of 1.0017 applied to the FY2021 Federal per diem base rate of $799.27. Therefore, the Federal per diem base of $816.61 will be applied.

Update Factors	Final FY21	Final FY22
IPF Market Basket	2.2%	2.7%
Outlier fixed-dollar loss threshold	(.0%)	.1%
Economy wide productivity adjustment	(.0%)	(0.7%)
IPF Payment Rate	**2.2%**	**2.1%**

CMS FY22 Inpatient Rehabilitation Facility (IRF) PPS Final Rule

- CMS estimates IRF payments for FY2022 to increase 1.5% (or $130 million) related to payments in FY2021
- Outlier threshold amount updated from $7,906 for FY 2021 to $9,491 for FY 2022 to maintain estimated outlier payments at about 3% of total estimated aggregate IRF payments for FY 2022.
- IRFs not meeting reporting requirements are subject to a two-percentage point (2.0%) reduction in their annual increase factor.

Update Factors	Final FY21	Final FY22
IRF Market basket update	2.4%	2.6%
Productivity Point Adjustment	(.0%)	(0.7%)
IRF Increase Factor	**2.4%**	**1.9%**

Questions?

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For more information on the CMS Rules, send us an email and/or go to:
https://www.berrydunn.com/news-detail/medicare-releases-fy2022-final-and-proposed-rules-on-payment-and-fee-schedules