



American Health Care Association

1201 L Street, NW, Washington, DC 20005-4046
Main Telephone: 202-842-4444
Main Fax: 202-842-3860 2nd Main Fax: 202-842-3924
Writer's Telephone: 202-898-2819
Writer's E-Mail: pgruhn@ahca.org
www.ahca.org

MEMORANDUM

TO: AHCA Members
FROM: Peter Gruhn, Director of Research
SUBJECT: Overview of the Skilled Nursing Facility Prospective Payment System Notice for FY 2011
DATE: July 20, 2010

On July 16, 2010, the Centers for Medicare & Medicaid Services (CMS) issued the notice for the skilled nursing facility (SNF) prospective payment system (PPS) FY 2011 update: Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2011. The notice will be published July 22, 2010 in the Federal Register. A desk copy of the notice can be viewed at: http://www.ahcancal.org/facility\_operations/medicare/Documents/FedReg201007MCareSNFPSP.pdf. Though it is a notice, CMS will be accepting comments on selected aspects of the notice up until 5 p.m. on September 14, 2010. AHCA will be submitting comments. If members wish to provide comments to AHCA, we ask that they be submitted to AHCA by COB on Friday August 13th, 2010. Comments can be emailed to Peter Gruhn at pgruhn@ahca.org or Elise Smith at esmith@ahca.org.

Below are highlights of the key components of the CMS notice, which is followed by a more detailed overview.

Highlights

- CMS estimates that net Medicare Part A payments to SNFs will increase by 1.7% or about \$542 million in fiscal year (FY) 2011 (about \$7 to \$8 per patient day).
The notice provides for a full market basket increase of 2.3% beginning October 1, 2010, which AHCA estimates would have increased SNF payments by about \$733 million in FY 2011.
The notice also provides for a reduction in Medicare Part A payments of 0.6% or about \$191 million in FY 2011 to correct for an error in forecasting the market basket in FY 2009. The SNF PPS includes a provision to adjust payment rates for market basket forecasting errors when ever the difference between the forecasted and actual change in the market basket exceeds a 0.5 percentage point threshold. Since the 0.6% error in forecasting the FY 2009 market basket exceeds the 0.5% threshold, CMS will reduce the market basket by 0.6% in FY 2011.

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- CMS is in the process of developing a new “Hybrid” Resource Utilization Group (RUG), Version 3 (HR-III) based payment infrastructure to enact SNF PPS related provisions in the Patient Protection and Affordable Care Act (ACA) of 2010. The provisions require implementation of Minimum Data Set, Version 3.0 (MDS 3.0) in FY 2011, a one-year delay in implementation of most of the RUG-IV requirements, but with implementation of concurrent therapy and lookback related components in FY 2011. HR-III, however, will not be ready to deploy by October 1, 2010. Consequently, CMS will make payments under the RUG-IV system on an interim basis, beginning with service dates of October 1, 2010. CMS will retroactively adjust these payments once HR-III is implemented. RUG-IV will be fully implemented in FY 2012.
- Consistent with the transition from the RUG-44 group model to the RUG-53 group model using the current RUG-III case-mix systems in FY 2006 and as described in the FY 2011 SNF PPS final rule for the transition from RUG-III to RUG-IV, CMS will implement the transition from RUG-III to HR-III in a budget neutral manner so that aggregate payments under the two systems will be approximately the same. While overall payments are projected to be about the same, the implementation of HR-III and the expected impact of implementation of RUG-IV will significantly affect the distribution of payments across the modified RUG-53 grouper in FY 2011.
- With the support from AHCA, CMS, and other stakeholders, Congress is working toward passing a provision to enact RUG-IV for FY 2011. While the House has passed the *Veterans’, Seniors’ and Children’s Health Technical Corrections Act of 2010 (H.R. 5712)* that would repeal RUG-IV delay related provisions in the ACA, the Senate must still pass the bill and the President must sign it into law before it can take effect. AHCA is very active in urging the Congress to act so that RUG-IV can be implemented on October 1, 2010.
- In accordance with the Medicare Modernization Act (MMA), the per diem rate for SNF patients with Acquired Immune Deficiency Syndrome (AIDS) had been increased by 128% as of October 1, 2004. Under the CMS notice, this add-on will remain in effect for FY 2011.
- All rates and wage indexes outlined in the Notice for the SNF PPS for FY 2011 apply to all swing-bed rural hospitals but not to critical access hospitals (CAHs) that would continue to be paid on a reasonable cost basis for SNF services furnished under a swing-bed agreement.
- The labor-related weight for FY 2011 is 69.311%, down from 69.840% for FY 2010.
- For FY 2010, CMS will continue to employ inpatient hospital wage data in the computation of the Core-Based Statistical Area (CBSA) SNF PPS wage index that is used to adjust the labor-related portion of the federal rate.
- In geographic areas where there are no hospitals and, thus, no hospital wage index data on which to base the calculation of the SNF PPS wage index, CMS is proposing to continue to update the wage index using their alternative urban and rural methodologies in FY 2011.

## **Conclusion**

Below is a brief overview of the SNF PPS notice. While we have tried to provide an overview of important items, we ask that you review the notice carefully, particularly items related to the implementation of HR-III and RUG-IV, so that you will be fully apprised of the changes that will affect your organization.

As noted above, AHCA will be submitting comments, and we want to hear from you. We welcome your comments and feedback on the notice, particularly comments related to the construction of the market basket, forecast error correction issues, and operational impacts of HR-III and RUG-IV. Please provide us with any comments by COB on Friday August 13<sup>th</sup>, 2010. Comments can be emailed to Peter Gruhn at [pgruhn@ahca.org](mailto:pgruhn@ahca.org) or Elise Smith at [esmith@ahca.org](mailto:esmith@ahca.org).

## Overview

### I. CMS Projected Impact of the SNF PPS Notice

For FY 2011, CMS estimates the aggregate increase in Medicare Part A payments to SNFs associated with this notice at \$542 million or about \$7 to \$8 per patient day, a 1.7% increase. CMS expects that the implementation of MDS 3.0 and HR-III / RUG-IV will have no overall impact on total aggregate SNF payments in FY 2011. The distributional effect of the budget-neutral adjustment to the wage index, implementation of HR-III PPS and RUG-IV PPS, and the notice overall including the market basket update, are detailed below:

**Projected Impact to the SNF PPS for FY 2011**

	Wage Index	FY 2011 w RUG-IV		FY 2011 w HR-III	
		RUG-IV only	Total change	HR-III only	Total change
Total	0.0%	0.0%	1.7%	0.0%	1.7%
Urban	0.0%	0.2%	1.9%	0.1%	1.8%
Rural	0.0%	-0.9%	0.7%	-0.2%	1.5%
Hospital based urban	-0.1%	-1.3%	0.3%	2.9%	4.6%
Free standing urban	0.0%	0.3%	2.0%	0.0%	1.7%
Hospital based rural	-0.1%	-0.7%	0.9%	3.3%	5.0%
Freestanding rural	0.0%	-1.0%	0.7%	-0.5%	1.2%
Government	0.0%	1.2%	2.9%	2.6%	4.3%
Proprietary	0.0%	-0.1%	1.6%	-0.4%	1.3%
Voluntary	-0.1%	0.2%	1.8%	1.3%	3.0%

### II. The SNF Market Basket

In the notice, CMS recommends a full SNF market basket update for FY 2011 of 2.3% or about \$733 million. This is the full market basket. Every year, CMS calculates a revised labor-related share based on the relative importance of labor-related cost categories in the price index. The labor-related share for FY 2011 is 69.311%, down from 69.840% for FY 2010.

### III. The Forecast Error Correction to the SNF Market Basket

There will be a market basket forecast error correction in the SNF PPS market basket for FY 2011. Based on FY 2009 data (the most recently available fiscal year for which there is final data), the estimated increase in the market basket index was 3.4 percentage points, while the actual increase was 2.8 percentage points – a difference of negative 0.6 percentage points. Since the difference between the estimated and actual market basket forecast error is greater than the 0.5 percentage point threshold, the market basket for FY 2011 will be reduced by 0.6%.

**Difference between Forecasted & Actual Market Basket Increases for FY 2009**

Index	Forecasted FY 2009 Increase	Actual FY 2009 Increase	FY 2009 Difference
SNF	3.4%	2.8%	-0.6%

#### **IV. ACA, RUG-IV, and HR-III**

The Patient Protection and Affordable Care Act (ACA) of 2010 included a number of provisions that affect the SNF PPS. First, the ACA specifies that MDS 3.0 should be implemented beginning on October 1, 2010 for FY 2011. Second, the ACA postpones implementation of the RUG-IV case-mix classification system by one year until FY 2012, rather than FY 2011 as finalized in the FY 2010 SNF PPS final rule. Notwithstanding the postponed implementation of RUG-IV, the ACA specified that CMS should implement selected RUG-IV provision related to concurrent therapy and the look-back period in the current RUG-III case-mix classification system framework for FY 2011.

Implementing MDS 3.0, delaying RUG-IV, but implementing selected aspects of RUG-IV in the existing RUG-III system, appears to have put CMS in a bit of a pickle. While a RUG-III grouper that utilizes MDS 2.0 currently exists and a RUG-IV grouper that utilizes MDS 3.0 has been finalized, CMS notes that “no grouper currently exists that incorporates the particular combination of features mandated by the statute: the use of the new RUG-IV revisions on concurrent therapy and the look-back period as well as MDS 3.0, but within the overall context of the existing [RUG-III] system.” CMS further notes that “attempting to develop and implement such a modified grouper within the short timeframe available before the ACA provision’s October 1, 2010 effective date would potentially cause significant disruption to providers, suppliers, and State agencies.”

Consequently, in order to continue to pay providers for SNF services provided to Medicare beneficiaries after October 1<sup>st</sup>, CMS describes a two-step approach for implementing the SNF PPS related provisions of the ACA in the SNF PPS notice. Effective October 1, 2010, CMS will apply interim RUG-IV based payment rates that utilizes MDS 3.0 as finalized in the FY 2010 SNF PPS final rule to pay SNFs for Part A services to Medicare beneficiaries. CMS notes that once the necessary payment system infrastructure is in place, that they “will then retroactively adjust claims to reflect a ‘hybrid’ RUG-III (HR-III) system which incorporates RUG-IV’s specific revisions on concurrent therapy and the look-back period within the framework of the existing [RUG-III] system, along with the use of MDS 3.0.”

Consistent with the transition from the RUG-44 group model to the RUG-53 group model using the current RUG-III case-mix systems in FY 2006 and as described in the FY 2010 SNF PPS final rule for the transition from RUG-III to RUG-IV, CMS will implement the transition from RUG-III to HR-III in a budget neutral manner “to ensure parity between overall payments under the [RUG-III] model currently in effect and anticipated payments under the HR-III system required by the ACA.” Though the implementation may be budget neutral overall, the implementation of HR-III and the expected impact of implementation of RUG-IV will significantly affect the distribution of payments across the modified RUG payment system for FY 2011.

In addition, CMS will also implement “all other non-RUG-IV changes finalized in the FY 2010 SNF PPS final rule for implementation effective FY 2011.” These non-RUG-IV MDS 3.0 related provisions include “updated reporting procedures for short-stay patients, implementation of an optional, abbreviated start-of-therapy [Other Medicare Required Assessment] (OMRA), a revised Assessment Reference Date (ARD) requirement for the end-of-therapy OMRA, and an abbreviated end-of-therapy OMRA.”

Notwithstanding CMS’s plans for interim RUG-IV payments and retroactive claim adjustments for final HR-III payments in FY 2011, and full RUG-IV implementation in FY 2012, CMS could implement RUG-IV for FY 2011 if the Congress acts. With the support from AHCA, CMS, and other stakeholders, Congress is working toward passing a provision to enact RUG-IV for FY 2011. While the House of Representatives has passed the *Veterans’, Seniors’ and Children’s Health Technical Corrections Act of 2010 (H.R. 5712)* that would repeal HR-III related provisions in the ACA, the Senate must still pass the

bill and the President must sign it into law before it can take effect. AHCA is very active in urging the Congress to act so that RUG-IV can be implemented on October 1, 2010 for FY 2011.

## **V. Area Wage Index Adjustment to the Federal Rates**

Section 1888(e)(4)(G)(ii) of the *Social Security Act* requires that CMS adjust the federal rates to account for differences in area wage levels, using an appropriate wage index. In the absence of SNF-specific wage data, CMS believes it is “appropriate and reasonable” to use hospital wage data for the SNF PPS wage index. Since the inception of a prospective payment system for SNFs, CMS has used hospital wage data in developing a wage index for the SNF PPS, a practice that CMS proposes to continue for FY 2011.

Section 1888(e)(4)(G)(ii) of the *Social Security Act* also requires that CMS apply the wage index in a manner that does not result in aggregate payments that are greater or less than would otherwise be made in the absence of the wage adjustment. CMS currently adjusts the wage index to ensure that it is budget neutral in terms of aggregate payments. CMS proposes to continue this practice as well.

CMS also plans to continue to use its urban/rural alternative wage index methodology in geographic areas where there are no hospitals, and thus, no hospital wage data upon which to base calculations for the FY 2011 SNF PPS wage index. For rural geographic areas without hospital wage data, CMS will use the average wage index for all contiguous Core-Based Statistical Areas (CBSAs) as a reasonable proxy. For urban geographic areas without hospital wage data, CMS will use the average wage index of all of the urban areas within the state as a reasonable proxy. The alternative FY 2011 SNF PPS rural wage index methodology will be used to construct the wage index for rural Massachusetts, and the alternative urban wage index methodology will be used to construct the wage index for CBSA (25980) Hinesville-Fort Stewart, Georgia.

An electronic version of the FY 2011 SNF PPS wage index can be accessed at the following web site:  
[http://www.cms.gov/SNFPPS/04\\_WageIndex.asp](http://www.cms.gov/SNFPPS/04_WageIndex.asp)

## **VI. Conclusion**

Again, all comments on the SNF PPS notice for FY 2011 are due to CMS no later than 5 p.m. on Tuesday September 14, 2010. AHCA will be submitting comments, and we welcome comments from our members. We welcome your comments and feedback on the notice, particularly comments related to the construction of the market basket, forecast error correction issues, and operational impacts of HR-III and RUG-IV. If members wish to provide comments or feedback to AHCA, we ask that they be submitted to AHCA by COB on Friday August 13<sup>th</sup>, 2010. Comments can be emailed to Peter Gruhn at [pgruhn@ahca.org](mailto:pgruhn@ahca.org) or Elise Smith at [esmith@ahca.org](mailto:esmith@ahca.org).