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perspectives

**An Analysis and Commentary on Federal Health Care Issues
by Larry Goldberg**

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CMS Posts Final FY 2022 Hospice Wage Index and Payment Rate Update



The Centers for Medicare and Medicaid Services (CMS) have issued its final rule that updates the hospice payment rates, wage index values, and the hospice payment cap amount for fiscal year (FY) 2022.

The rule also makes changes to the labor shares of the hospice payment rates and finalizes clarifying regulations text changes to the election statement addendum that was implemented on October 1, 2020. In addition, this rule makes permanent selected regulatory blanket waivers that were issued to Medicare-participating hospice agencies during the COVID-19 public health emergency (PHE) and updates the hospice conditions of participation.

This rule updates the Hospice Quality Reporting Program and finalizes changes beginning with the January 2022 public reporting for the Home Health Quality Reporting Program to address exceptions related to the

COVID-19 PHE.

The 226-page rule is scheduled for publication in the **Federal Register** on August 4. A copy is currently available at: <https://public-inspection.federalregister.gov/2021-16311.pdf>. Of course, this link will change upon publication.

Comment

Guess I'm getting tired of saying that CMS still does not provide any type of table of contents. This is not helpful, this is burdensome, and it appears that nobody cares.

As required by OMB, CMS provides the following table to explain the changes in overall payments to hospices.

Category	Transfers
Annualized Monetized Transfers	\$ 480 million*
From Whom to Whom?	Federal Government to Medicare Hospices

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CMS says it estimates “that aggregate payments to hospices in FY 2022 will increase by \$480 million as a result of the market basket update, compared to payments in FY 2021. CMS says further, it estimates “that in FY 2022, hospices in urban areas will experience, on average, 2.0 percent increase in estimated payments compared to FY 2021. While hospices in rural areas will experience, on average, 2.2 percent increase in estimated payments compared to FY 2021.”

The rule’s Section II – Background – is totally unneeded and unnecessary. CMS spends more than 10 pages explaining the history of this program? Once again, for some unknown reason CMS continues to promulgate rules the same way it did more than 30 years ago. Will it ever change?

Provisions of the Final Rule

A. Hospice Utilization and Spending Patterns

In the proposed rule, CMS included data analysis on historical hospice utilization trends. The final rule basically “thanks the commenters” and doesn’t change anything.

B. FY 2022 Labor Shares

CMS proposed changes to the labor/ non-labor shares. CMS spends some 25 pages explaining the changes to the current labor shares. The table below reflects the changes.

Final, Proposed, and Current Labor shares by Level of Care

	Final FY 2022 Labor shares	Proposed FY 2022 Labor shares	Current Labor shares
Continuous Home Care	75.2%	74.6%	68.71%
Routine Home Care	66.0%	64.7%	68.71%
Inpatient Respite Care	61.0%	60.1%	54.13%
General Inpatient Care	63.5%	62.8%	64.01%

C. FY 2022 Hospice Wage Index, Rate Update and Rates

The final hospice wage indexes applicable for FY 2022 (October 1, 2021 through September 30, 2022) is available on the CMS website at: <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Hospice-Wage-Index.html>.

CMS proposed a market basket rate update of 2.5 percent less a productivity reduction of 0.2 percent for a net increase of 2.3 percent.

For this final rule, based on IHS Global Inc.’s (IGI) second quarter 2021 forecast with historical data through the first quarter 2021 of the inpatient hospital market basket update, the market basket percentage increase for FY 2022 is 2.7 percent. The productivity adjustment for FY 2022, based on IGI’s second quarter 2021 forecast, is 0.7 percent. Therefore, the hospice payment update percentage for FY 2022, based on more recent data, is **2.0 percent**.

There are four payment categories that are distinguished by the location and intensity of the hospice services provided.

The FY 2022 Routine Health Care (RHC) rates and the payment rates for Continuous Home Care (CHC), Inpatient Respite Care (IRC), and General Inpatient Care (GIP) are shown in the tables below.

FY 2022 Hospice RHC Payment Rates

Code	Description	FY 2021 Payment Rates	SIA Budget Neutrality Factor	Wage Index Standardization on Factor	Labor Share Standardization on Factor	Final FY2022 Hospice Payment Update	Final FY 2022 Payment Rates
651	Routine Home Care (days 1-60)	\$199.25	1.0003	1.001	0.9995	X 1.02	\$203.40
651	Routine Home Care (days 61+)	\$157.49	1.0005	1.0009	0.9992	X 1.02	\$160.71

FY 2022 Hospice CHC, IRC, and GIP Payment Rates

Code	Description	FY 2021 Payment Rates	Wage Index Standardization Factor	Labor Share Standardization Factor	Final FY 2022 Hospice Payment Update	Final FY 2022 Payment Rates
652	Continuous Home Care Full Rate = 24 hours of care	\$1,432.41	1.004	1.0006	X 1.023	\$1,462.52 (\$60.94 per hour)
655	Inpatient Respite Care	\$461.09	1.0014	1.0059	X 1.023	\$473.75
656	General Inpatient Care	\$1,045.66	1.0019	0.9997	X 1.023	\$1,068.28

The FY 2022 rates for hospices that do not submit the required quality data would be updated by the FY 2022 hospice payment update percentage of 2.0 percent minus 2.0 percentage points.

Hospice Cap Amount for FY 2022

The hospice cap amount for the FY 2022 cap year will be \$31,297.61, which is equal to the FY 2021 cap amount (\$30,683.93) updated by the FY 2022 hospice payment update percentage of 2.0 percent.

D. Clarifying Regulation Text Changes for the Hospice Election Statement Addendum

CMS is finalizing modifications to the hospice election statement content requirements at § 418.24(b) to “increase coverage transparency for patients under a hospice election.” These changes include a new condition for payment requiring a hospice, upon request, to provide the beneficiary (or representative) an election statement addendum (hereafter called “the addendum”) outlining the items, services, and drugs that the hospice has determined are unrelated to the terminal illness and related conditions.

CMS proposed allowing a hospice to furnish the addendum within 5 days from the date of a beneficiary or representative request, if the request is within 5 days from the date of a hospice election.

For example, if the patient elects hospice on December 1st and requests the addendum on December 3rd, the hospice would have until December 8th to furnish the addendum.

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CMS is finalizing the clarifications and addendum regulation text changes at § 418.24(c) as proposed, with the exception of requiring the reason that the addendum is not signed to be documented in the patient’s medical record.

E. Hospice Waivers Made Permanent Conditions of Participation

CMS is finalizing as proposed at § 418.76(c)(1) its policy that hospices may conduct competency testing by observing an aide’s performance of the task with a patient or pseudo-patient. Additionally, CMS is finalizing as proposed at § 418.3 the definitions of “pseudo-patient” and “simulation”.

CMS is also finalizing as proposed the requirement at § 418.76(h)(1)(iii) to specify that if an area of concern is verified by the hospice during the on-site visit, then the hospice must conduct, and the hospice aide must complete, a competency evaluation of the deficient skill and all related skill(s) in accordance with § 418.76

F. Updates to the Hospice Quality Reporting Program

The Hospice Quality Reporting Program (HQRP) specifies reporting requirements for both the Hospice Item Set (HIS) and Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Hospice Survey.

The following table lists all quality measures planned for FY 2022 for HQRP.

Quality Measures Planned for FY 2022 for the Hospice Quality Reporting Program

Hospice Item Set	
NQF	Short Name
3235	Hospice and Palliative Care Composite Process Measure—HIS-Comprehensive Assessment Measure at Admission includes: <ol style="list-style-type: none"> 1. Patients Treated with an Opioid who are Given a Bowel Regimen (NQF #1617) 2. Pain Screening (NQF #1634) 3. Pain Assessment (NQF #1637) 4. Dyspnea Treatment (NQF #1638) 5. Dyspnea Screening (NQF #1639) 6. Treatment Preferences (NQF #1641) 7. Beliefs/Values Addressed (if desired by the patient) (NQF# 1647)
Claims-based Measures	
Not applicable	Hospice Visits in Last Days of Life (HVLDL)
Not applicable	Hospice Care Index (HCI) <ol style="list-style-type: none"> 1. Continuous Home Care (CHC) or General Inpatient (GIP) Provided 2. Gaps in Skilled Nursing Visits 3. Early Live Discharges 4. Late Live Discharges 5. Burdensome Transitions (Type 1) – Live Discharges from Hospice Followed by Hospitalization and Subsequent Hospice Readmission 6. Burdensome Transitions (Type 2) – Live Discharges from Hospice Followed by Hospitalization with the Patient Dying in the Hospital 7. Per-beneficiary Medicare Spending 8. Skilled Nursing Care Minutes per Routine Home Care (RHC) Day 9. Skilled Nursing Minutes on Weekends 10. Visits Near Death

CAHPS Hospice Survey	
2651	CAHPS Hospice Survey – single measure <ul style="list-style-type: none"> • Communication with Family • Getting timely help • Treating patient with respect • Emotional and spiritual support • Help for pain and symptoms • Training family to care for the patient • Rating of this hospice • Willing to recommend this hospice

“In this final rule, we are not making any revisions to the HIS Comprehensive Assessment Measure. We are finalizing our proposal to remove the seven individual HIS process measures from the HQRP, no longer publicly reporting them as individual measures on Care Compare beginning with FY 2022. In addition, we will remove the ‘7 measures that make up the HIS Comprehensive Assessment Measure’ section of Care Compare, which displays the seven HIS measures. These will be effective no earlier than May 2022. Hospice providers, must report HIS data used for the HIS Comprehensive Assessment Measure, in order to meet the requirements for compliance with the HQRP

Comment

As we have stated many times, the quality material is both extensive and complex. This rule is no different. The quality section consumes some 112 pages, or half of the total rule, itself.

CMS says, “the HQRP will contain four quality measures that capture care across the hospice stay, including a new measure called the Hospice Care Index. This measure includes 10 indicators of quality that are calculated from claims data. Collectively, the indicators represent different aspects of hospice care and provide a comprehensive characterization of the quality of care furnished by a hospice throughout the stay. This claims-based measure will be publicly reported no earlier than May 2022.”

“This rule also finalizes the addition of the Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Hospice Survey Star ratings on Care Compare. Star ratings benefit the public in that they can be easier for some to understand than absolute measure scores, and they make comparisons between hospices more straightforward.”

“Additionally, the rule finalizes the addition of the claims-based Hospice Visits in the Last Days of Life (HVLDL) measure for public reporting, which supports patient empowerment and transparency of hospice performance. The claims-based measures will utilize eight quarters of data in order to have a larger population for publicly report on small providers, thereby more hospices will be available for consumers to compare. This rule also removes seven individual Hospice Item Set (HIS) measures because a more broadly applicable measure, the Hospice Comprehensive Assessment Measure (NQF # 3235), for the particular topic is available and already publicly reported. This measure helps to ensure all hospice patients receive a holistic comprehensive assessment. Finally, CMS is providing updates regarding its development of a new Hospice Outcome and Patient Evaluation (HOPE) assessment instrument.”

The quality data elements appear confusing. Which are staying and which are being added or deleted?

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G. January 2022 Home Health QRP Public Reporting Display Schedule with Fewer than Standard Number of Quarters Due to COVID-19 Public Health Emergency Exemptions

CMS is finalizing its proposal to use three quarters rather than four quarters of data for the January 2022 refresh affecting OASIS-based measures.

Final Comment

This rule continues to repeat much unneeded and unnecessary historical information.

The quality material, as noted above is confusing and we defer to quality experts to decipher.