LTACH 2007 PPS Final Rule:

Softer than Proposed

By

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Introduction

On May 2, 2006, CMS announced the LTCH PPS Final Rule for the 2007 rate year, which finalized the proposed rules published in the Federal Register on January 27, 2006. Despite the heightened concern regarding the final rule's effects upon the LTACH industry, the final rule's overall fiscal impact is not nearly as drastic as the proposed rule's estimated net fiscal impact of approximately negative 11%. According to CMS projections, on average, the provisions of the final rule are estimated to result in an overall 3.7% decrease in payments per discharge in the 2007 LTCH PPS rate year.

The 2007 Final Rule has four areas of interest:

1. Market basket proposed rate;
2. DRG surgical exception;
3. High cost outlier payment methodologies; and
4. Short-stay outlier payment methodologies.

Market Basket

The 2007 LTCH PPS federal rate will remain $38,086.04 as was proposed in the January 27, 2006 rule. This is the same rate used during the 2006 rate year. CMS applied a zero market basket update for 2007 to offset changes in LTCH coding practices that did not reflect increased severity of LTCH patients.

While there may be some concern that the zero market basket update is problematic, this issue is should not be troublesome. For the prior three years, CMS has provided an increase in the market basket. A freeze for one year will not result in any drastic changes for LTACHs. The update freeze was expected from the proposed rule the 2007 and should be manageable for the upcoming rate year.

Budget Neutrality Adjustment

The proposed rule provided for a budget neutrality offset of .999 and the Final Rule increased the offset to 1.000.

The Final Rule also adopted the use of the Rehabilitation, Psychiatric, Long-Term Care (RPL) market basket under the LTCH PPS in place of the excluded hospital capital market basket. The RPL market basket is more suitable for the

LTCH PPS because this market basket will be developed based on the best available data that reflects the cost structures of LTCHs. Thus, the change in the type of market basket should assist with the appropriate development of the future market basket updates based upon more accurate reporting of cost structures as related to the long term care venue.

Labor-Related Share

The Final Rule also revised the labor-related share (and non-labor related share) of the LTCH PPS Federal rate. The labor-related share of the Federal rate is currently at 72.885 percent will increase to 75.665 percent for the 2007 rate year. The increase in the labor-related share will generally have a limited beneficial impact on per discharge Medicare reimbursement for LTCHs with wage indexes greater than 1.000. Conversely, LTCHs in areas with wage indexes less than 1.000 are expected to experience a minimal decrease in Medicare reimbursement as a result of the increased labor-related share. For instance, most rural LTCHs will experience a negative impact on reimbursement due to this change.

DRG Surgical Exception

The final rule confirmed the discontinuance of the surgical DRG exception to the three-day or less interrupted stay policy. This discontinuance only reflects the manner in which the surgical bill is reimbursed. Now LTACHs should be the guarantor of payment to the short term acute care facility that performed the surgical procedure. When an LTACH refers a patient for surgery to the short term acute facility, the LTACH will bill under the surgical DRG rate and reimburse the short term acute facility for the procedure accordingly. This change is not problematic and should not have a significant negative financial impact on LTACHs.

High Cost Outliers

The fixed-loss amount for the 2007 LTCH PPS rate year is set at $14,887. The current fixed-loss amount is $10,501 and CMS had proposed a 2007 fixed-loss amount of $18,489. The current fixed-loss threshold for high cost outliers is artificially low. While the proposed rate was significantly higher than the final rule, the fixed-loss amount for the 2007 LTCH PPS rate year is acceptable.

Short-Stay Outliers

Of all the new provisions in the 2007 LTCH PPS rule, the short-stay outlier section is by far the most complex and detailed. Overall, the new provisions regarding short-stay outliers are much softer than the proposed rule. The bottom line is that LTACHs must now, more than ever, focus on effective case management and ensure proper patient admissions.

The proposed rule on short-stay outlier (SSO) reimbursement posed significant concern for the LTCH industry. Short-stay outliers are defined as those patients with a length of stay up to and including five-sixths of the geometric mean length of stay (GMLOS) for each LTC-DRG. As proposed, Medicare reimbursement for SSOs could have been reduced in many cases to "an amount comparable to the amount that would have been paid under the [general acute hospital] IPPS." Because SSO cases constitute a significant number of LTCH discharges (approximately 37 percent of Medicare discharges), CMS's proposed rule would have reduced reimbursement for a high percentage of Medicare discharges.

In part due to comments from the LTCH industry, the SSO payment methodology was revised. The revised rule provides that CMS will reimburse for short-stay outlier patients the lesser of the following:

1) 100 percent of Patient Costs;
2) 120 percent of the per diem of the LTC-DRG multiplied by the LOS;
3) Full LTC-DRG Payment; or
4) A blend of the comparable IPPS per diem payment amount (capped at the full IPPS comparable payment amount) and the 120 percent of the LTC-DRG per diem payment amount.

Formula 1: 100% of Patient Costs
In an effort to further reduce the number of inappropriate admissions to LTCHs, the first short-stay outlier payment methodology formula was changed from 120% of patient costs to 100% of patient costs. By decreasing the percentage, CMS intends to eliminate the financial incentive of transferring a patient to a LTCH that may be treated in an alternative setting more appropriately.

Formulas 2 and 3
The second (120% of specified LTC-DRG per diem) and third (Full LTC-DRG Payment) formulas in the short-stay outlier payment methodology remained the same for the 2007 rate year.

Formula 4: Blend Alternative
Most of the complexity within the SSO new rule revolves around the fourth formula, or the "blended formula." In the fourth formula, the IPPS per diem amount is adjusted accordingly for low-income populations, teaching institutions, wage index, and other adjustments. This formula ultimately leads to a penalty for short stay outliers that are exceedingly low (1-5 days).

In the proposed rule, CMS intended to penalize SSOs that were less than the GMLOS. The new rule is significantly less draconian because it penalizes SSOs on more of a sliding scale basis. The closer the SSO is to 5/6ths of the GMLOS the less the penalty and the farther the SSO is from 5/6ths of the GMLOS, the greater the penalty. The new SSO fourth component reflects that as a patient stay increases so do the LTCH resources consumed by that patient. The formula

used to calculate the blended amount also anticipates that as the patient LOS nears the lower of the SSO threshold or 25 days, the payment will be adjusted until it is equal to the 120 percent of the LTC-DRG per diem amount.
Under the blend alternative payment, as the LOS increases, the IPPS comparable per diem payment amount under the LTCH PPS will decrease in percentage while increasing the percentage of the LTC-DRG per diem amount. This formula is intended to increase the payment, as the patient LOS increases, thus recognizing the cost of the provision of a LTCH's level of expertise and care. A significant decrease in payment will be reflected on the shorter stays; the shorter the stay the closer to the IPPS per diem.

The following illustration provides an example of the impact of the new SSO payment methodology:

Assumptions based on FY 2006 data

DRG 475-Respiratory System Diagnosis w/ Vent Support

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Short Term Payment	**8.1 day GMLOS**	**$17,081.87**
Long Term DRG	**34.6 day GMLOS** **(28.8 5/6th GMLOS)**	**$79,337.03** **Full Payment**

Example: Based on 22 Day Length of Stay
$53,965 Payment
$2,453 Per Diem

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CMS Formula	Description	Final Payment
Formula One	100% of Patient Costs	**$53,965.00***
Formula Two	120% of the LTC Per Diem Amount	**$60,534.61**
Formula Three	Full LTC-DRG Payment	**$79,337.03**
Formula Four	Blend Alternative	**$55,315.95**

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*Utilizing an actual UB92 applying a 50% cost to charge ratio

Ultimately, the SSO provisions of the final rule are estimated to result in approximately a 3.6 percent decrease in LTCH reimbursement per discharge and the percent decrease for all proposed changes (including the SSO policy) is estimated to be 3.7 percent from 2006 levels. Notably, the final rule impact is not nearly as drastic as the proposed rule net fiscal impact of 11.4 percent.

CMS's intent in revising the SSO policy in the final rule is to discourage and remove the incentive for LTCHs to admit patients for whom a long-term hospital stay is not necessary. CMS believes that SSO policy's negative impact may be mitigated if LTCHs alter their admission policies and practices such that fewer SSO cases are admitted.

Conclusion

While CMS's final SSO regulation could reduce LTCH reimbursement by approximately 3.6 percent, the final rule is indeed an improvement over the proposed rule. Clearly, the impact of the SSO policy is the most significant change but is also a change which LTACH's should be able to address. Aggressive and effective case management and closer attention to timeliness of admissions from the referring short term acute hospital will reduce the negative reimbursement impact of the SSO policy.

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