AHPA
ADVENTIST HEALTH POLICY ASSOCIATION

Summary: Outpatient Prospective Payment System Proposed Rule CY 2022

The Centers for Medicare and Medicaid Services (CMS) has released the annual Hospital Outpatient Prospective Payment System (OPPS) proposed rule. The proposed rule will increase payment rates by 2.3%. It also includes other key policies, such as strengthening price transparency requirements and reversing the elimination of the Inpatient Only List. If finalized, most of these policies and payment rates will become effective on January 1, 2022. **Comments on the proposed rule are due September 17, 2021.**

Key Proposals

General Payment Policies

- Increase payment rates by 2.3% in CY 2022, based on the projected hospital market basket increase of 2.5% for services paid under the Inpatient Prospective Payment System, minus a 0.2% productivity adjustment.
- Use CY 2019 claims data for rate setting, instead of the typical most recent year's data (which would have been CY 2020 claims data, including services furnished during the COVID-19 public health emergency).
- Continue to pay clinic visits provided by off-campus hospital outpatient departments (coded under HCPCS G0463) at 40% of the OPPS rate.

The Inpatient Only (IPO) List

- Halt the three-year phased elimination of the IPO list that was originally finalized in CY 2021.
- Add the 298 services removed from the IPO list in CY 2021 back onto the list, beginning in CY 2022.
- **CMS seeks comment on whether it should maintain the longer-term objective of eliminating the IPO list or whether it should just scale back the list "so that inpatient only designations are consistent with current standards of practice."**

The "Two-Midnight" Rule

- Revise the "two-midnight" exemption for procedures removed from the IPO list on or after January 1, 2021. These services will be only exempt from medical review for two years, instead of indefinitely as previously finalized in the CY 2021 OPPS rule.

Price Transparency

In the CY 2020 OPPS final rule, CMS instated Civil Monetary Penalties (CMPs) of up to $300 per day for hospitals that did not publish charge information, including payer-specific negotiated rates, in a machine-readable format online. CMS now proposes to:

- Increase the CMP for noncompliance on a sliding scale based on a hospital's bed count.
    - Larger hospitals, defined as hospitals more than 30 beds, would incur a penalty of $10 per bed, per day.
    - Hospitals with 30 beds or less would continue to incur the $300 per hospital daily penalty.
    - Penalties are not to exceed a maximum daily amount of $5,500, which equates to a maximum annual potential penalty of $2,007,500.
- Require that machine-readable files be made accessible "without barriers," including by allowing automated searches and direct file downloads.
- Clarify that hospitals' online price estimators take into account each individual's own circumstances, rather than providing estimated average amounts or price ranges for a shoppable service based on aggregate patient data.
- **CMS seeks comments on ways that it could further ensure compliance and alternative ways to scale CMPs (e.g., hospital revenue, duration of noncompliance…).**

The Ambulatory Surgical Center (ASC) Covered Procedures List (CPL)

In the CY 2021 OPPS final rule, CMS eliminated a subset of the ASC CPL addition criteria and added 267 surgical and "surgery-like" procedures to the CPL.

- Reinstate the ASC CPL criteria for adding procedures to the list and remove 258 of the 267 procedures added in CY 2021.
- Adopt a new nomination process for adding surgical procedures to the ASC CPL. Under this proposal, stakeholders would be able to formally nominate procedures and provide public comment on procedures under consideration.
- **CMS seeks comment on whether any of the 258 procedures proposed for removal from the ASC CPL meet the proposed reinstated criteria.**

The Radiation Oncology (RO) Model

- Proceed with the previously-delayed RO Alternative Payment Model (APM) on January 1, 2022, with the following changes:
    - Remove brachytherapy as an included modality.
    - Remove liver cancer as an included indication.
    - Lower the discount factors for professional and technical components from 3.75 and 4.75%, respectively, to 3.5 and 4.5%.
    - Allow the RO model to qualify as an Advanced APM or MIPS APM in Performance Year 1, instead of requiring that participants wait until Performance Year 2.

The 340B Drug Discount Program

- Maintain payment for 340B drugs at Average Sales Price (ASP) minus 22.5%.
- Drugs priced according to Wholesale Acquisition Cost (WAC) will also be paid at ASP minus 22.5%.

The Hospital Outpatient Quality Reporting (OQR) Program

- Remove two chart-abstracted measures beginning with the CY 2023 reporting period:
    - *Fibrinolytic Therapy Received Within 30 Minutes of ED Arrival (OP-2)*
    - *Median Time to Transfer to Another Facility for Acute Coronary Intervention (OP-3)*
- Replace these two measures with the ST-Segment Elevation Myocardial Infarction (STEMI) electronic Clinical Quality Measure (eCQM).
- Add two measures beginning with the CY 2022 reporting period:
    - *COVID-19 Vaccination Coverage Among Health Care Personnel*
    - *Breast Screening Recall Rates*
- Reinstate two previously-removed measures, with modifications:
    - *Outpatient and Ambulatory Surgical Consumer Assessment of Healthcare Providers and Systems Survey-Based Measures*
    - *Cataracts: Improvement in Patient's Visual Function within 90 Days Following Cataract Surgery*

Health Equity in Quality Programs

- Seeks comment on stratifying performance results by dual eligibility as a proxy for social risk in the following six priority measures included in the OQR Program:
    - *MRI Lumbar Spine for Low Back Pain*
    - *Abdomen CT – Use of Contract Material*

- *Cardiac Imaging for Preoperative Risk Assessment for Non-Cardiac Low Risk Surgery*
- *Facility 7-Day Risk-Standardized Hospital Visit Rate after Outpatient Colonoscopy*
- *Admissions and ED Visits for Patients Receiving Outpatient Chemotherapy*
- *Hospital Visits after Hospital Outpatient Surgery*