



CMS Adopts ESRD Facility Prospective Payment System & Proposes New Quality Incentive Program

July 31, 2010

The Centers for Medicare & Medicaid Services (CMS) on July 26 issued a final rule that will change how Medicare pays for dialysis services for Medicare beneficiaries who have end-stage renal disease (ESRD). Concurrently, CMS also proposed new rules that would establish a new quality incentive program (QIP) to promote high quality services in dialysis facilities by linking a facility's payments to performance standards. The QIP is the first pay-for-performance program in a Medicare fee-for-service payment system. Read the rule and proposed rule [here](#).

Both the new prospective payment system and the proposed QIP were required by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). The law requires the ESRD PPS to pay dialysis facilities a single bundled rate for renal dialysis services and home dialysis, while the proposed QIP promotes quality of service furnished by these facilities by creating payment incentives for them to take steps to improve patient outcomes.

ESRD PPS Rule

The new ESRD PPS provides a single bundled case-mix adjusted payment to dialysis facilities for renal dialysis services such as dialysis treatments and supplies, certain ESRD-related drugs, and ESRD-related clinical laboratory tests beginning on Jan. 1, 2011. The final rule sets a base payment rate of \$229.63 for each dialysis treatment. This payment rate includes payment for the services in the current composite rate, as well as most items and services that are currently paid separately. Although CMS has determined that the definition of renal dialysis services includes ESRD-related oral drugs without injectable equivalents (or other forms of administration), CMS is delaying paying for those drugs under the ESRD PPS until Jan. 1, 2014.

The base payment rate would be adjusted for case-mix factors including patient's age, body size, and time on dialysis. By accounting for more characteristics of patients, the new PPS will target payments more appropriately, paying higher rates to those facilities with the most costly dialysis patients. Separate case-mix adjustments will apply to pediatric patients. In the final rule, CMS also adopts facility level adjustments including a geographic wage index and an adjustment for low-volume facilities that furnish fewer than 4,000 dialysis treatments and meet certain other criteria. The final rule also includes an outlier payment policy that will pay facilities more for patients whose care is significantly more costly than the Medicare payment amount.

The final rule establishing the new prospective payment system (PPS) also provides for a payment adjustment for home dialysis training when clinically appropriate. CMS intends this change to help ensure that ESRD patients are learning the skills and techniques they need to properly receive their dialysis treatment at home.

In the ESRD PPS final rule, CMS also has reduced the number of case-mix co-morbidity adjustments. In addition, at this time, CMS is not finalizing a case-mix payment adjustment based on the patient's sex, race or ethnicity. CMS has been reviewing and updating its processes for collecting and validating patient-level race and ethnicity data from dialysis facilities, which will ensure that CMS has the most accurate information possible for the races and ethnicities of all patients with ESRD. As this work continues, CMS will assess whether this effort will position the Agency to incorporate such an adjuster for payment in the future. CMS plans to continue studying the issue to ensure that all beneficiaries with ESRD have access to quality care, and in the meantime, plans to implement an active monitoring program to respond to concerns about disparities in access to care.

ESRD QIP

In addition to finalizing the ESRD PPS payment policies and rates for calendar year 2011, CMS issued a proposed rule that would establish performance standards and a scoring methodology for the Quality Incentive Program required by MIPPA to ensure quality of care for patients with ESRD. The deadline for public comment on the proposed rule is September 24, 2010. CMS plans to finalize this proposed rule later this year.

In the ESRD PPS final rule, CMS adopted the three quality measures that will be used in the initial implementation of the QIP. Two of these measures reflect whether patients are receiving appropriate treatment for anemia – that is, whether the amount of iron in the blood is neither too low, nor too high. The third measure captures patients' urea reduction ratio, which indicates how well dialysis treatments are removing wastes from patients' bodies. The law requires CMS to reduce the payment rates to a dialysis facility by up to 2.0 percent if that facility fails to meet or exceed the established performance scores with regard to performance standards established for each quality

measure. Facilities failing to meet or exceed specified total performance scores will receive reduced reimbursement for dialysis services furnished on or after Jan. 1, 2012. The QIP proposed rule also discusses options for making individual facility performance scores available both to dialysis patients and to the general public as required by the law.

For Additional Assistance

The author of this update, attorney Cynthia Marcotte Stamer, has extensive experience advising and assisting health care providers and other health industry clients with licensure, contracting, reimbursement, compliance, public policy, regulatory, staffing, and other operations and risk management matters. Ms. Stamer also regularly publishes and conducts training on these and other compliance, management and operations matters. You can get more information about her health industry experience [here](#). If you need assistance with these or other compliance concerns, wish to inquire about arranging for compliance audit or training, or need legal representation on other matters please contact Ms. Stamer at (469) 767-8872 or via e-mail [here](#). To review the regulations, see [here](#). For a summary, see [here](#).

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For More Information

We hope that this information is useful to you. If you need assistance evaluating or responding to the Health Care Reform Law or health care compliance, risk management, transactional, operational, reimbursement, or public policy concerns, please contact the author of this update, Cynthia Marcotte Stamer, at (469) 767-8872, cstamer@Solutionslawyer.net.

Vice President of the North Texas Health Care Compliance Professionals Association, Past Chair of the ABA Health Law Section Managed Care & Insurance Section and the former Board Compliance Chair of the National Kidney Foundation of North Texas, Ms. Stamer has more than 23 years experience advising health industry clients about these and other matters. A popular lecturer and widely published author on health industry and human resources matters, Ms. Stamer continuously advises health industry clients about health industry and other related concerns. Ms. Stamer also publishes and speaks extensively on health and managed care industry regulatory, staffing and human resources, compensation and benefits, technology, public policy, reimbursement and other operations and risk management concerns. Her insights on these and other related matters appear in the Health Care Compliance Association, Atlantic Information Service, Bureau of National Affairs, World At Work, The Wall Street Journal, Business Insurance, the Dallas Morning News, Modern Health Care, Managed Healthcare, Health Leaders, and a many other national and local publications. For additional information about Ms. Stamer, her experience, involvements, programs or publications, see [here](#).

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