

**CMS PROPOSES FY 2011 ACUTE CARE & LONG-TERM CARE
INPATIENT POLICY & PAYMENT RATE CHANGES***April 20, 2010**By Cynthia Marcotte Stamer*

June 18, 2010 is the deadline for health care providers and other concerned parties to comment on proposed Medicare inpatient acute care and long-term care hospital stay policy and payment rate changes announced by the Centers for Medicare & Medicaid Services (CMS) on Monday, April 19 2010. CMS intends to publish a final rule to be issued by August 1, 2010.

CMS issued the proposed fiscal year (FY) 2011 policies and payment rates for inpatient services furnished to people with Medicare by both acute care hospitals and long-term care hospitals on Monday. The proposed rule does not address inpatient hospital related provisions of the recently enacted Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act (collectively referred to as the "Affordable Care Act").

In the proposed Medicare payment rates announced April 19, CMS proposes update acute care hospital rates by a slight 2.4 percent for inflation and to apply an adjustment of -2.9 percentage points to recoup one-half of the estimated excess spending in FY 2008 and 2009 aggregate payments, due to changes in hospital coding practices that CMS says did not reflect increases in patients severity of illness. Legislation passed in 2007 requires CMS to recoup the entire amount of FY 2008 and 2009 excess spending from changes in hospital coding practices by FY 2012. CMS estimates that payments to general acute care hospitals under the proposed rule for operating expenses in FY 2011 will decline by 0.1 percent, or \$142 million, compared with FY 2010, and taking into account all factors that would affect spending.

CMS concurrently is similarly proposing to update long-term care hospital (LTCH) rates by 2.4 percent for inflation and apply an adjustment of -2.5 percentage points for the estimated increase in spending in FYs 2008 and 2009 due to documentation and coding that did not reflect increases in patients' severity of illness. Based on these two proposed provisions and other proposed changes, CMS estimates that payments to LTCHs would increase by 0.8 percent or \$41 million.

Interested parties may review the proposed regulation [here](#). More information about the proposed rule, including the documentation and coding adjustment and the RHQDAPU changes and HACs discussion, can be found in Fact Sheets on the CMS Website [here](#). CMS warns that the projected inflation updates for both types of hospitals may be revised in the final rule based on more recent data.

The proposed rule would apply to approximately 3,500 acute care hospitals paid under the Inpatient Prospective Payment System (IPPS), and approximately 420 long-term care hospitals paid under the Long-Term Care Hospital Prospective Payment System (LTCH PPS), beginning with discharges occurring on or after October 1, 2010. Proposed payment rates are based on the most recently available data and may be revised in the final rule to reflect more current data.

Under current law, hospitals that successfully report quality measures included in the Reporting Hospital Quality Data for Annual Payment Update (RHQDAPU) program will receive the full update for 2011. Hospitals that do not participate in the quality reporting program will get the update less two percentage points. Based on the required reporting in 2009, 96 percent of participating hospitals are receiving the full update this year.

CMS is proposing to add 45 measures to the RHQDAPU set for reporting in 2011. However, only 10 of the proposed measures, including rates of occurrence for eight of 10 categories of conditions that are subject to the

hospital-acquired conditions (HACs) policy, will be considered in determining a hospital's FY 2012 update. The remaining 35 measures would be considered in determining the hospital's FY 2013 update, and hospitals would not be required to report all of the proposed registry-based measures. The proposed use of registries would prevent hospitals from having to report the same data twice. In addition, CMS is proposing to retire one existing measure for reporting mortality for selected surgical procedures.

For Assistance With Health Industry Concerns

If your organization needs advice or assistance with the proposed regulation, preparing or submitting comments on the regulation or with other health care matters, contact Cynthia Marcotte Stamer at (469) 767-8872 or via e-mail [here](#).

Vice President of the North Texas Health Care Compliance Professionals Association, Exempt Organization Vice-Coordinator of the Southern States IRS TEGE Council, Chair of the American Bar Association (ABA) Real Property, Probate & Trust Section Employee Benefits & Other Compensation Arrangements Group, a Council Member of the ABA Joint Committee On Employee Benefits Council, 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 22 years experience advising health industry clients about these and other matters. A popular lecturer and widely published author on health industry matters, Ms. Stamer advises hospitals and other health industry clients about responding to and using these and other quality measures and other related concerns. Ms. Stamer also publishes and speaks extensively on health and managed care industry quality, regulatory, reimbursement, and other operations, risk management and public policy 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](#).

Other Recent Developments & Resources

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For More Information

We hope that this information is useful to you. If you need assistance with auditing or defending these or other health care compliance, risk management, transaction or operation concerns, please contact Cynthia Marcotte Stamer, at (469) 767-8872 or to cstamer@solutionslawyer.net. Ms. Stamer has extensive experience advising clients and writes and speaks extensively on these and other health industry and other internal controls and risk management matters.

You can review other recent health care and internal controls resources and additional information about the health industry and other experience of Ms. Stamer [here](#). If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile at [here](#) or e-mailing this information to [here](#).

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