Medicare Long-Term Care Hospital
Prospective Payment System

Payment Rule Brief — Proposed Rule
Program Year: FFY 2013

Overview

On May 11, 2012, the Centers for Medicare and Medicaid Services (CMS) officially released the federal fiscal year (FFY) 2013 proposed payment rule for the Medicare Long-Term Care Hospital Prospective Payment System (LTCH PPS). The proposed rule reflects the annual update to the Medicare fee-for-service (FFS) LTCH payment rates and policies based on regulatory changes put forward by CMS and legislative changes previously adopted by Congress.

A copy of the proposed rule Federal Register and other resources related to the LTCH PPS are available on the CMS Web site at: https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/index.html.

An online version of the proposed rule Federal Register is available at: https://federalregister.gov/a/2012-9985.

Comments on the proposed rule are due to CMS by Monday, June 25. Comments can be submitted electronically at http://www.regulations.gov by using the Web site’s search feature to search for file code “CMS-1588-P.”

Highlights of the proposed rule along with Federal Register (FR) page references for additional details are provided below. Program changes adopted by CMS would be effective for discharges on or after October 1, 2012.

LTCH Payment Rate

The following table lists the proposed LTCH standard federal rates for FFY 2013 compared to the rate currently in effect. CMS is proposing to apply a prospective budget neutrality adjustment reduction to the rate in FFY 2013. However, a legislative moratorium prevents CMS from applying the adjustment prior to December 29, 2012. As a result, CMS is proposing to use two different LTCH standard federal rates during FFY 2013.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$40,222.05</td>
<td>$41,026.88</td>
<td>$40,507.48</td>
<td>+0.7%</td>
</tr>
</tbody>
</table>

* The percent change shown reflects a comparison of the FFY 2013 rate that would take effect on December 29 compared to the FFY 2012 rate. The percent change from the FFY 2012 rate to the proposed rate for October 1 – December 28 is 2.0%.
The table below provides details of the proposed updates for the LTCH standard federal rates for FFY 2013.

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unadjusted Marketbasket (MB) Update +3.0%</td>
<td></td>
</tr>
<tr>
<td>ACA-Mandated Productivity MB Reduction -0.8 percentage points</td>
<td></td>
</tr>
<tr>
<td>ACA-Mandated Pre-Determined MB Reduction -0.1 percentage points</td>
<td></td>
</tr>
<tr>
<td>ACA-Adjusted MB Update +2.1%</td>
<td></td>
</tr>
<tr>
<td>Prospective Budget Neutrality Adjustment Reduction Not Applicable</td>
<td>-1.266%</td>
</tr>
<tr>
<td>Wage Index Budget Neutrality Adjustment Adjustment -0.097% -0.097%</td>
<td></td>
</tr>
<tr>
<td>Overall Proposed Rate Change +2.0% +0.7%</td>
<td></td>
</tr>
</tbody>
</table>

**Prospective Budget Neutrality Adjustment Reduction**

Since the implementation of the LTCH PPS in FFY 2003, CMS has maintained that it has the statutory authority to apply a prospective (permanent) reduction to the LTCH standard rate in order to neutralize for any increase in aggregate payments that may have occurred as a result of transitioning LTCHs from a cost-based payment system to a PPS. CMS first suggested applying a budget neutrality adjustment reduction to the standard rate in 2007. Legislative moratoria have prevented CMS from implementing such a reduction for 5 years. With the current legislative moratorium set to expire, CMS is proposing to move forward with a prospective budget neutrality adjustment reduction to the LTCH standard rate. Based on an analysis presented in the proposed rule, CMS believes that the transition to the PPS in FFY 2003 increased aggregate payments to LTCHs by 3.75%. For FFY 2013, CMS is proposing to apply a permanent reduction of 1.266% to the rate beginning with discharges occurring on or after December 29, 2012 (current law prevents CMS from implementing the adjustment prior to December 29). CMS is proposing to implement comparable full year reductions to the LTCH rate in FFYs 2014 and 2015 to achieve the total proposed 3.75% reduction (FR pages 28,023-28,032).

**Marketbasket Update**

Beginning with FFY 2013, CMS is proposing to move to a LTCH-specific marketbasket value. Currently, CMS uses a combined rehabilitation, psychiatric and long-term care (RPL) marketbasket value. CMS believes the proposed change would result in a marketbasket that would more accurately reflect the cost structures of LTCHs. CMS notes that both the proposed LTCH-specific marketbasket and the RPL marketbasket are currently estimated to be the same at 3.0% for FFY 2013 (FR pages 28,007-28,016).

**Sequestration Reductions**

Absent from the proposed rule is guidance as to how CMS will implement the 2.0% sequestration reduction to all lines of Medicare payment set to take effect on January 1, 2013. Sequestration reductions were authorized by Congress as part of the Budget Control Act (BCA) of 2011. It is believed that the 2.0% downward reduction will be applied at remittance (the time Medicare contractors pay each Medicare FFS claim) and will be incorporated into the cost report settlement (no FR reference).

**Wage Index, Labor-Related Share, and COLA**

**Wage Index**

The labor-related portion of the LTCH standard federal rate is adjusted for differences in area wage levels using a wage index. As has been the case in prior years, CMS would use the most recent inpatient hospital wage index, the FFY 2013 pre-rural floor and pre-reclassified hospital wage index, to adjust payment rates under the LTCH PPS for FFY 2013. A complete list of the proposed LTCH wage indexes for payment in FFY 2013 is available
in proposed rule Tables 12A and 12B on the CMS Web site at: https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/LTCHPPS-Regulations-and-Notices-Items/LTCH-PPS-CMS-1588-P.html (FR page 28,153).

**Labor-Related Share**
CMS is proposing to significantly reduce the labor-related share of the standard rate from 70.199% for FFY 2012 to 63.217% for FFY 2013. This proposal is related to CMS’ proposed change to move the LTCH PPS from the RPL-based marketbasket value to a LTCH-specific marketbasket value. This is the second consecutive significant decrease to the labor-share used under the LTCH PPS. The labor-share in FFY 2011 was 75.271%. This change will increase payments to LTCHs with a wage index less than 1.0 and decrease payments for those with wage indexes greater than 1.0 (FR pages 28,016-28,018).

**COLA**
For LTCHs in Alaska and Hawaii, the LTCH PPS provides a cost-of-living adjustment (COLA). The COLA adjustment is made by multiplying the nonlabor-related portion of the federal operating rate by the applicable COLA factor. For FFY 2013, CMS is proposing to use the same COLA factors used to adjust payments in FFY 2012 (as originally used to adjust payments in FY 2011, which are based on the U.S. Office of Personnel Management’s 2009 COLA factors). A list of the proposed FFY 2013 COLA factors is available on Federal Register page 28,146 (FR pages 28,019-28,020).

**MS-LTC-DRGs**
Each year, CMS updates the Medicare Severity (MS)-Long-Term Care (LTC)-Diagnosis Related Group (DRG) classifications and relative weights. These updates are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. Although the DRGs used to classify patients under the LTCH PPS are identical to those used under the inpatient PPS, the relative weights are different for each setting. CMS is not proposing any major changes to the way the MS-LTC-DRG weights would be calculated for FFY 2013. Table 11, a table of the proposed FFY 2013 MS-LTC-DRGs and weights is available on the CMS Web site at: https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/LTCHPPS-Regulations-and-Notices-Items/LTCH-PPS-CMS-1588-P.html (FR pages 28,000-28,007).

**HCO Payments**
High cost outlier (HCO) payments were established under the LTCH PPS to provide additional payments for extremely costly cases. Outlier payments are made if the estimated cost of the case exceeds the payment for the case plus a fixed-loss amount. Costs are determined by multiplying the facility’s overall cost-to-charge ratio (CCR) by the allowable charges for the case. When a case qualifies for an outlier payment, CMS pays 80% of the difference between the estimated cost of the case and the fixed-loss amount. CMS has established a target of 8.0% of total LTCH PPS payments to be set aside for high cost outliers. To maintain total outlier payments at 8.0% of total LTCH PPS payments, CMS is proposing to decrease the fixed-loss amount by 12.3% from $17,931 in FFY 2012 to $15,728 in FFY 2013. The decreased threshold amount would increase the number of cases eligible for outlier payments (FR pages 28,156-28,157).

**SSO Payments**
Short-stay outlier (SSO) payments were established under the LTCH PPS to ensure that LTCH payments, which are predicated on long lengths of stay (LOS), are not applied to cases where the patient may have received only
partial treatment at a LTCH. Currently, the SSO outlier policy applies to cases with a covered LOS of less than or equal to 5/6 of the average LOS for the MS-LTC-DRG. Payments for SSO cases are based on the lowest of four calculated amounts:

1) the full MS-LTC-DRG amount;
2) 120% of the MS-LTC-DRG per diem;
3) 100% of cost; or
4) a blend of the comparable inpatient PPS MS-DRG per diem and 120% of the MS-LTC-DRG per diem

In 2007, CMS adopted changes to the SSO policy to capture very short stays (cases with a LOS shorter than the LOS captured under the original SSO outlier policy). Beginning with discharges on or after July 1, 2007, CMS adopted a policy to pay 100% of the comparable inpatient PPS MS-DRG per diem (as opposed to the blended per diem) for LTCH cases with a LOS of less than or equal to the average LOS plus one standard deviation for that same DRG under inpatient PPS (very short stay cases).

Legislative moratoria have delayed the application of the “inpatient PPS comparable per diem amount” payment option for very short stay cases for 5 years. With the current legislative moratorium set to expire, CMS plans to apply this previously adopted modification to the SSO payment policy effective with discharges on or after December 29, 2012 (FR pages 28,022-28,023).

**LTCHQR Program**

The ACA required CMS to implement a quality data pay-for-reporting program for providers paid under the LTCH PPS. Last year, CMS adopted 3 measures that providers must collect data on this year to implement the Long-Term Care Hospital Quality Reporting (LTCHQR) Program. LTCHs that fail to successfully participate in the LTCHQR Program receive reduced payments through a reduction of 2.0 percentage points to the LTCH marketbasket update. CMS makes these payment determinations each year. CMS will make the first payment determination related to the 3 measures adopted last year in FFY 2014. Details on the measures and rules adopted for FFY 2014 payment determinations is available in FR pages 51,743-51,756 of FFY 2012 LTCH PPS final rule at: https://federalregister.gov/a/2011-19719. Data on patient-related measures collected under the LTCHQR Program are collected on all patients, regardless of payer.

CMS is proposing updates to the LTCHQR Program for FFYs 2015 and 2016 payment determinations.

**FFY 2015 Payment Determinations**

For FFY 2015 payment determinations, CMS is not proposing to expand the LTCHQR Program. Rather, CMS is proposing to retain the 3 measures adopted for FFY 2014 payment determinations. These measures include:

- Urinary Catheter-Associated Urinary Tract Infection (CAUTI) rate per 1,000 urinary catheter days, for Intensive Care Unit (ICU) Patients (NQF #0138);
- Central Line Catheter-Associated Blood Stream Infection (CLABSI) Rate for ICU and High-Risk Nursery (HRN) Patients (NQF #0139); and
- Percent of Residents with Pressure Ulcers that are New or Worsened (Short-Stay) (NQF #0678)

CMS is proposing to require data submission on these measures for discharges occurring during calendar year 2013. Complete detail on the data submission methods and timeframes for FFY 2015 payment determinations are provided in the Federal Register (FR pages 28,092-28,094 and pages 28,100-28,101).
FFY 2016 Payment Determinations

For FYY 2016 payment determinations, CMS is proposing to evaluate a total of 8 measures. CMS is proposing to retain all adopted/proposed measures for FYY 2014 and FYY 2015 payment determinations and is proposing to add the following measures:

- Percent of Nursing Home Residents Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay) (NQF #0680);
- Percent of Residents Assessed and Appropriately Given the Pneumococcal Vaccine (Short-Stay) (NQF #0682);
- Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431);
- Ventilator Bundle — a process measure that facilitates the use of certain protocols designed to mitigate ventilator-related infections (NQF #0302); and
- Restraint Rate per 1,000 Patient Days (not NQF endorsed)

CMS is proposing to require data submission on these measures for discharges occurring during calendar year 2014. Complete detail on the data submission methods and timeframes for FYY 2016 payment determinations are provided in the Federal Register (FR pages 28,094-28,100 and page 28,101).

Expiration of Moratoria Related to LTCH Payment and Operational Policies

Under current law, several moratoria related to LTCH payment and operational policies are set to expire during calendar year 2012. These moratoria were first implemented during calendar year 2007 and legislatively extended multiple times. In the proposed rule, CMS addresses how it proposes to handle the expiring moratoria.

25% Payment Adjustment Threshold

Since 2005, CMS has pursued a policy to reduce LTCH payment amounts to the inpatient PPS amount for LTCHs that admit more than 25% of Medicare cases from an onsite or neighboring inpatient acute care hospital. Legislative moratoria have delayed the full application of the 25% payment adjustment threshold for about 5 years. The moratoria applies a less restrictive threshold to certain LTCHs and exempts other classes of LTCHs from the threshold altogether.

With the current legislative moratoria set to expire, rather than pursue the full implementation of this payment policy, CMS is proposing to extend the existing moratoria for one year. The one-year extension would be cost report year (CRY)-based, effective for cost reporting period beginning during FYY 2013.

Due to the staggered timing of the expiration of the current legislative moratoria and the proposed CRY-based extension, certain LTCHs will be subject to the full implementation of the 25% rule before the moratoria takes hold again. The proposed extension of the existing moratoria will apply in the following manner:

- For certain classes of LTCHs (freestanding, grandfathered hospitals-within-hospitals, and grandfathered satellites) the existing moratoria will expire for discharges that occur during cost report periods beginning on or after July 1, 2012. As a result, the full application of the 25% payment adjustment threshold for these LTCHs would take hold for discharges that occur in cost reporting periods beginning on or after July 1, 2012 and before July 1, 2013. Then, for discharges that occur in cost reporting periods beginning on or after July 1, 2013 and before July 1, 2014, the proposed extension to the existing moratoria would be reinstated.

- For all other LTCHs, there will be no gap between the existing moratoria and the one-year extension.
CMS cites potential future payment methodology changes to the LTCH PPS that could render the 25% payment adjustment threshold policy unnecessary as the reasoning behind extending the existing moratoria for one year (FR pages 28,021-28,022).

Prospective Budget Neutrality Adjustment Reduction
See “LTCH Payment Rate” section above.

Inpatient PPS Comparable Per Diem Amount Payment Option Under the SSO Payment Policy
See “SSO Payments” section above.

Restrictions on the Establishment/Classification of New LTCHs and Bed Growth at Existing LTCHs
Since 2007, Congress has restricted the establishment/classification of new LTCHs and bed growth at existing LTCHs. These restrictions are set to expire on December 28, 2012. CMS does not have the authority to extend these restrictions but does state in the proposed rule that they are supportive of a statutory extension of these moratoria (FR page 28,021).