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Medicare Quashes Limits on Long-Term Care Hospital Referrals (1)

The Medicare agency killed a widely disliked rule that would have slashed reimbursements for some long-term care hospitals.

The 25 percent rule would have penalized an LTCH if more than a quarter of its patients came from a single-acute care hospital by reducing its Medicare reimbursements to an equivalent inpatient payment amount for patients admitted past the 25 percent threshold.

Four hundred eleven LTCHs were reimbursed by Medicare in 2017, according to the Medicare Payment Advisory Commission. The rule wouldn't have applied to rural long-term care hospitals and hospitals that have discharged more than 25 percent of the total hospital Medicare discharges in its metropolitan geographical area.

Hospitals had long urged the Centers for Medicare & Medicaid Services to rescind the rule, which was introduced as part of the 2005 inpatient hospital payment rule but never fully implemented. If the rule wasn't rescinded, it would've taken effect Oct. 1.

Hospital groups applauded the rule's demise. "We commend CMS for revoking the long-term care hospital 25% Rule, a change long advocated for by the AHA, but remain opposed to reductions in payments to offset that change," Tom Nickels, executive vice president of the American Hospital Association, said in a statement.

The CMS created the rule to prevent LTCHs from taking patients who weren't appropriate for their facilities, Lane Koenig, director of policy and research at the National Association of Long Term Hospitals, told Bloomberg Law Aug. 7.

Multiple Delays The CMS and Congress have delayed implementing the rule multiple times. "Congress has always sort of stepped in and provided some sort of relief" so the rule was never fully implemented, Koenig said.

The most recent one-year moratorium was because of concerns about statutory delays and concerns from regulators and industry members that the rule might be unnecessary.

The 25 percent rule wasn't really accomplishing the CMS's goal of preventing LTCHs from taking patients who weren't appropriate for their facilities, Koenig said.

"Withdrawal of the 25% Rule would be beneficial for patient access to care, and it also would improve LTCH operations by ending the substantial allocation of staff resources to oversee compliance with the policy," the Tennessee Hospital Association said in a comment letter to the CMS on the inpatient payment rule.

The AHA said site-neutral payments addressed some of the concerns that led to the implementation of the 25 percent rule. Site-neutral payments are a way for Medicare to stop paying more for the same type of clinical visit in the hospital inpatient setting than the LTCH setting and were introduced in 2016. Medicare pays for some services at the lower per day rates in the inpatient payment system.

Hospitals also said site-neutral payments were unnecessary because of what's known as the dual payment rate. The dual payment rate reduced reimbursements for patients admitted to LTCHs that have not stayed in the intensive care unit for at least three days or have not required 96 or more hours of mechanical ventilation. The dual payment rate was established in the Pathway for SGR Reform Act of 2013. The SGR Reform Act also extended the transition time from dual payments to site neutral payments until 2020.

Koenig said the changes made in the SGR Reform Act eliminated the need for the 25 percent threshold rule.

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