

IPPS/LTCH PPS Proposed Rule Released

On April 10, 2023, the Centers for Medicare & Medicaid Services (CMS) released its proposed rules for the payment and policy updates for the Medicare inpatient prospective payment system (IPPS) and long-term care hospital prospective payment system (LTCH PPS) for fiscal year (FY) 2024.¹ In addition to a slight payment bump, CMS clarified its stance on physician-owned hospitals and proposed several advances in accordance with the administration's health equity initiative. This Health Capital Topics article will discuss the proposed rule and the implications for stakeholders.

By law, CMS is required to update IPPS and LTCH payment rates annually while accounting for changes in the prices of goods and services used by hospitals in the treatment of Medicare beneficiaries.² Under the two payment systems (IPPS and LTCH PPS), base payment rates are set by CMS prospectively for inpatient stays based on the severity of the illness, the services utilized, the treatment provided, the cost of labor in the locality, and the patient's diagnosis.³ Hospitals receive a lump payment for each hospitalization, dependent on the Diagnosis-Related Group (MS-DRG) classification assigned at discharge.⁴

CMS proposes increasing the IPPS base rate by 2.8%, which is \$3.3 billion in additional funding for FY 2024.⁵ This percentage increase is comprised of a projected FY 2024 hospital market basket increase of 3.0%, reduced by 0.2% due to a productivity adjustment.⁶ This proposed increase is considerably lower than the FY 2023 payment increase of 4.3%.⁷ Even while CMS proposes increases in overall payments to hospitals, it proposes decreases to payments that offset the cost of charity care for low income patients; disproportionate share hospital (DSH) payments and Medicare uncompensated care payments are expected to decrease by a combined \$115 million.⁸ This slight overall payment bump comes after what many industry experts have referred to as the worst year financially for hospitals.⁹ While hospital margins are stabilizing, hospital groups assert the increase will hardly address inflation.¹⁰

For FY 2024, the LTCH standard payment rate is expected to increase by 2.9%, with the LTCH PPS payments for patient discharges to decrease by approximately 2.5% or \$59 million, due to a projected 4.7% decrease "in high-cost outlier payments as a percentage of total LTCH PPS standard Federal payment rate payments."¹¹ For FY 2023, the LTCH PPS payments

increased by 2.4%.¹² CMS is currently seeking comment on the methodology utilized to determine the LTCH PPS outlier threshold for the patient discharges that are paid the LTCH standard payment rate.¹³

CMS administrators are also proposing changes to how hospitals are scored under the Hospital Value-Based Purchasing Program, including adding 15 new categories for equity, which would result in more data collection and provide an avenue by which hospitals may address health equity gaps.¹⁴ This proposal is in line with the Biden Administration's larger ongoing focus on healthcare equity, as has been manifested in a number of Department of Health & Human Services (HHS) initiatives.¹⁵ The agency is also aiming to address social determinants of health, by proposing increased reimbursement for providers that treat patients experiencing homelessness.¹⁶ COVID-19 add-on payments are expected to be discontinued beginning in FY 2024, as long as the public health emergency ends as planned in May 2023.¹⁷

The proposed ruling also included a clarification on CMS's previous rule regarding physician-owned hospitals. The 2010 Patient Protection and Affordable Care Act (ACA) placed a moratorium on physician-owned hospitals, wherein those already in existence could not expand the number of operating rooms, procedure rooms, or beds in their facilities.¹⁸ In the 2021 Outpatient Prospective Payment System (OPPS) final rule, CMS dialed back that restriction, allowing physician-owned hospitals that are classified as "high Medicaid facilities," i.e., hospitals that serve more Medicaid beneficiaries than other hospitals in the area, to apply for an expansion exception once every two years; no longer have a cap on the number of beds that can be approved in that exception; and, no longer be allowed to only expand those facilities located on the hospital's main campus.¹⁹ However, CMS is now proposing to reinstate the program integrity requirements "on the frequency of expansion exception requests, maximum aggregate expansion of a hospital, and location of expansion facility capacity."²⁰ Additionally, CMS proposes only reviewing expansion exception requests from eligible hospitals, and identify factors that will be considered when this decision is made.²¹ This proposed rollback comes at an interesting time – as detailed in a March 2023 Health Capital Topics article, academics and policymakers are pushing for the removal of barriers for

physician-owned hospitals, which would make it easier for these facilities to be established and expand.²²

Healthcare industry stakeholders have expressed frustration with CMS’s proposals, arguing that the paltry proposed payment increase will not be enough. The American Hospital Association (AHA) stated that, “given the near decades-high inflation and increased costs for labor, equipment, drugs and supplies,” the rate would be inadequate.²³ AHA also stated that the adjustments did not reflect the reality of the world where hospitals are providing care, and that without any

significant updates in the final rule, the ability of hospitals to provide essential services to the community would be threatened.²⁴ Additionally, the Federation of American Hospitals (FAH) issued a similar statement, asserting that more support would be needed from Medicare.²⁵ FAH President and CEO, Chip Kahn, stated that “this IPPS proposed inflationary payment update is disappointing. It fails to recognize today’s headwinds that will strain the health safety net in 2024, which will further threaten patients’ access to care as hospitals are forced to reduce services or in some cases, especially rural areas, close completely.”²⁶

1 “FY 2024 Hospital Inpatient Prospective Payment System (IPPS) and Long-Term Care Hospital Prospective Payment System (LTCH PPS) Proposed Rule - CMS-1785-P” Centers for Medicare and Medicaid Services, April 10, 2023, <https://www.cms.gov/newsroom/fact-sheets/fy-2024-hospital-inpatient-prospective-payment-system-ipps-and-long-term-care-hospital-prospective> (Accessed 4/12/23).

2 *Ibid.*

3 *Ibid.*

4 *Ibid.*

5 “Hospitals get a slight pay boost” By Arielle Dreher and Maya Goldman, Axios, April 11, 2023, https://www.axios.com/2023/04/11/hospitals-get-a-slight-pay-boost?utm_campaign=KHN%3A%20Daily%20Health%20Policy%20Report&utm_medium=email&_hsmi=253835163&_hsenc=p2ANqtz-_2fpBaPWFjqTS_EfawsDCjBnN_i38UVMIbKyp457vNU00_fiDvjpbTtdAa_63RyoK0-SMpAC5ZpOT597zFQ_AdpUpweA&utm_content=253835163&utm_source=hs_email (Accessed 4/12/23).

6 Centers for Medicare and Medicaid Services, April 10, 2023.

7 “CMS Releases FY 2023 IPPS and LTCH Final Rule” By Miranda Franco, Holland & Knight, August 11, 2022, <https://www.hklaw.com/en/insights/publications/2022/08/cms-releases-fy-2023-ipps-and-ltch-final-rule> (Accessed 4/12/23).

8 Dreher and Goldman, Axios, April 11, 2023.

9 *Ibid.*

10 *Ibid.*

11 Centers for Medicare and Medicaid Services, April 10, 2023.

12 Franco, Holland & Knight, August 11, 2022.

13 Centers for Medicare and Medicaid Services, April 10, 2023.

14 Dreher and Goldman, Axios, April 11, 2023.

15 “CMS proposes nearly 3% bump to inpatient pay in fiscal 2024 and installs equity requirements” By Robert King, Fierce Healthcare, April 10, 2023, <https://www.fiercehealthcare.com/providers/cms-proposes-nearly-3-bump-inpatient-pay-fiscal-2024-and-install-equity-requirements> (Accessed 4/12/23).

16 Dreher and Goldman, Axios, April 11, 2023.

17 *Ibid.*

18 “CMS Releases 2021 OPSS and ASC Payment System Proposed Rule” By Miranda A. Franco, Holland & Knight Alert, August 12, 2020, <https://www.hklaw.com/en/insights/publications/2020/08/cms-releases-2021-opss-and-asc-payment-system-proposed-rule> (Accessed 4/24/23).

19 “Trump Administration Proposes Policies to Provide Seniors with More Choices and Lower Costs for Surgeries” Centers for Medicare & Medicaid Services, August 4, 2020, <https://www.cms.gov/newsroom/press-releases/trump-administration-proposes-policies-provide-seniors-more-choices-and-lower-costs-surgeries> (Accessed 4/24/23).

20 Dreher and Goldman, Axios, April 11, 2023.; Centers for Medicare and Medicaid Services, April 10, 2023.

21 Centers for Medicare and Medicaid Services, April 10, 2023.

22 For more information., see “Is the Return of Physician-Owned Hospitals Imminent?” Health Capital Topics, Vol. 16 Issue 3 (March 2023) https://www.healthcapital.com/hcc/newsletter/03_23/HTML/PHYS/convert_physician-owned_hospitals_topics.php (Accessed 4/24/23).

23 “AHA Statement on FY 2024 Proposed IPPS & LTCH Payment Rule” By Ashley Thompson, American Hospital Association, April 10, 2023, <https://www.aha.org/press-releases/2023-04-10-aha-statement-fy-2024-proposed-ipps-ltch-payment-rule> (Accessed 4/12/23).

24 *Ibid.*

25 “FAH Leader on IPPS Proposed Rule: “Hospitals Aren’t Immune to Inflation, Need More Support from Medicare” By Chip Kahn, Federation of American Hospitals, April 10, 2023, <https://www.fah.org/blog/fah-leader-on-ipps-proposed-rule-hospitals-arent-immune-to-inflation-need-more-support-from-medicare/?media-center=true> (Accessed 4/12/23).

26 *Ibid.*



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