

Regulatory and Reimbursement Changes Under the FY 2014 IPPS Final Rule

On August 19, 2013, the Centers for Medicare & Medicaid Services (CMS) released the fiscal year (FY) 2014 Medicare Hospital Inpatient Prospective Payment System (IPPS) Final Rule for acute care and long-term care hospitals.¹ In addition to more routine payment system and policy updates, many of the more notable changes in the final rule were implemented on October 1, 2013, just over 40 days after publication of the document.

The regulation changes noted in the final rule included new rules allowing re-billing for denied admissions for Medicare Part B under certain circumstances for any claims denied after September 30, 2013.² The rule also notes changes to payment details for the Value Based Purchasing (VBP) program in future years, and finalizes previous proposals that the Hospital Acquired Conditions (HAC) program, implemented October 1, 2014, requires hospitals ranking in the highest quartile for HAC occurrences to receive a 1% reduction in all DRG payments, in addition to existing payment reductions for HAC occurrences.³ For additional discussion regarding the HAC program and other regulatory and reimbursement issues regarding HACs, refer to Health Capital Topics article “*An Overview of Infection Control and Patient Safety in the Era of ‘Never Events’*”, published in May 2013.⁴

Of the changes released in the final rule, the one that has caused perhaps the most consternation is the requirement named “*the 2 midnight rule*”. In an attempt to clarify standards for Medicare inpatient admissions, CMS requires that for payment under Medicare Part A, a patient should only be admitted with the expectation that the patient will remain an inpatient for at least two midnights, i.e., at least 24 hours, including time spent in outpatient observation.⁵ Per Medicare Part A requirements, a physician order is required at the time of inpatient admission and must include appropriate medical information to support the admission order.⁶ Of note, this order remains separate from physician certification and recertification for a hospital stay.⁷

Initially, the 2-midnight rule was to be enacted by October 1, 2013, with intentions that Recovery Audit Contractors (RAC) perform sample probe reviews during the implementation period of October 1 through December 31. These reviews would include auditing pre-billed records of inpatient stays spanning less than 2 midnights for compliance with the new regulation.⁸

However, after feedback from several stakeholders, on September 26, 2013, CMS announced that implementation of RAC reviews for short inpatient stays will be delayed until January 1, 2014.⁹

Many of the regulations noted above, and others not noted in this article, will likely incur significant savings for Medicare related to reimbursement and penalty fees for providers. The state of the U.S. healthcare marketplace, and ongoing efforts to reduce healthcare spending, as well as prevent fraud and abuse of the Medicare payment system, will likely prompt continuing regulatory efforts in this vein, as indicated by the recent IPPS final rule.

¹ Refer to “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Longer Term Care; Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status; Final Rule”, by the Centers for Medicare & Medicaid Services, Federal Register, Vol. 78, No. 160, August 19, 2013

² *Ibid.* by Centers for Medicare & Medicaid Services, August 19, 2013, p. 50505-50506

³ *Ibid.* by Centers for Medicare & Medicaid Services, August 19, 2013, p. 50707-50709
See Health Capital Topics Series “*Infection Control and ‘Never Events’*”, HC Topics Vol. 6, Issues 5-8, published in May 2013 through August 2013.

⁵ “FY 2014 IPPS/LTCH PPS Final Rule Goes Into Effect October 1, 2013”, by Polsinelli LLP, September 2013, p. 2

⁶ *Ibid.* Polsinelli LLP, September 2013, p. 2

⁷ Refer to “Medicare General Information, Eligibility, and Entitlement: Chapter 4 – Physician Certification and Recertification of Services”, by Centers for Medicare and Medicaid Services, Rev. 76, January 13, 2012

⁸ “Frequently Asked Questions: 2 Midnight Inpatient Admission Guidance & Patient Status Reviews for Admission on or after October 1, 2013”, by Centers for Medicare & Medicaid Services, 2013, p. 1-2

⁹ *Ibid.* Polsinelli LLP, September 2013, p. 3



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