PUBLICATION

CMS Announces New Cost Reporting Procedures to Address DSH Uncompensated Care Payments [Ober|Kaler]

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In the fiscal year 2014 Inpatient Prospective Payment System (IPPS) rule (the "final rule"), CMS explained the new disproportionate share hospital (DSH) payment methodology that took effect this October 1. As we reported in the August 22, 2013 *Payment Matters* newsletter, under the new methodology, 25% of each hospital's DSH payment is calculated using the prior DSH methodology; the remaining 75% is based on a methodology that, in large measure, uses each hospital's relative share of total uncompensated care costs measured against other hospitals' similar costs. CMS further explained in the final rule that it would make interim uncompensated care payments on a per discharge basis, with a reconciliation to be made to the hospitals' payments at the time of the cost report settlements. More specifically, CMS said that it would reconcile the uncompensated care payments for a given fiscal year on the cost report for the cost reporting period beginning in that same federal fiscal year (FFY).

At the time it published its final rule in August, 2013, CMS stated its belief that its payment and reconciliation approach would be administratively efficient and practical. And for some hospitals – those whose fiscal years began October 1 and are thus in alignment with the FFY – CMS is correct. For those hospitals, the methodology that CMS put into place results in the FFY DSH payment amounts being fully paid and reconciled consistent with the hospitals' cost reporting periods. Most hospitals, however, have cost reporting periods that do not align with the FFY, and, as to these hospitals, the CMS policy would have resulted in delays and potential administrative complications. For example, for a hospital with a cost reporting period that begins January 1, 2014, the total FFY 2014 uncompensated care payments would not be made by CMS to the hospital until settlement of the hospital's cost report for the period ending December 31, 2014. And, pursuant to general cost reporting instructions, the per discharge DSH payments made to the hospital during its 2013 cost reporting period, but related to the 2014 FFY DSH calculation, would be treated as overpayments and recouped. These recouped payments would ultimately be repaid to the hospital at the time of the reconciliation of the 2014 cost report, but the cost report/overpayment process would effectively delay the uncompensated care payments to the hospital and, for certain hospitals, would likely lead to serious cash flow problems.

CMS has now recognized these problems and, on October 3, 2013, announced a change in policy applicable to hospitals with cost reporting periods that are not concurrent with the FFY. 78 Fed. Reg. 61191-61197 [PDF]. As to those hospitals, CMS stated that it "intend[s] to align final… uncompensated care payment[s] with each individual hospital's cost reporting periods and to reconcile interim uncompensated care payment amounts on the hospital's cost report for the proportion of the cost reporting period that overlaps a federal fiscal year and in which the interim payments were made or should have been made." 78 Fed. Reg. at 61193. The final uncompensated care payment amounts that would be included in a cost report spanning two federal fiscal years would be the pro-rata share of the uncompensated care payment associated with each federal fiscal year.

Ober|Kaler's Comments

The new Medicare DSH formula is quite complicated by virtually any measure. The reconciliation approach adopted by CMS in the 2014 IPPS final rule promised to add to these complications. Now, however, for hospitals that have cost reporting periods that begin on a date other than October 1, the revised procedures just announced by CMS will likely simplify the payment and reconciliation process.