

PUBLICATION

CMS SNF PPS Proposed FY 2022 Rule – An Overview

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On April 15, 2021, Centers for Medicare & Medicaid Services (CMS) published its Proposed Rule for the Medicare Program Prospective Payment System (PPS) and Consolidated Billing for Skilled Nursing Facilities (SNF) and Updates to the Quality Reporting Program and Value-Based Purchasing Program for Federal Fiscal Year 2022 (FY 2022). Among other things, CMS has proposed to:

- Recalculate the federal per diem SNF PPS rates for FY 2022. The agency is relying on a revised market basket index based on a more recent base year and excluding from payment treatment, items, and services related to the use of certain blood clotting factors. The new rates will be adjusted to reflect the relative resource utilization of different patient types using the Patient Driven Payment Model (PDPM) case-mix classification model that became effective in October 2019. Despite consideration, the agency has declined to make specific updates to the wage index, the application of the administrative presumption, or the policy that all non-critical access hospitals (CAH) swing-bed rural hospitals bill under the SNF PPS system. However, the agency does propose to describe its methodology to update the market basket and its rationale for changing the base year from 2014 to 2018.
- Include two additional quality measures to the SNF Quality Reporting Program (QRP) beginning with the FY 2023 SNF QRP. These include the SNF Healthcare Associated Infections Requiring Hospitalization measure and the COVID-19 Vaccination Coverage Among Healthcare Personnel. CMS is also proposing to modify the denominator for the Transfer of Health Information to the Patient – Post Acute Care measure and proposing a revision to the number of quarters used for publicly reporting certain SNF QRP measures due to the COVID-19 public health emergency.

In addition to the proposals for the SNF QRP, CMS is also seeking input on several updates to the SNF Value Based Purchasing (VBP) Program, which are discussed in more detail below. Comments to the proposed rule must be received by June 7, 2021.

Proposed Update to the FY 2022 Federal Per Diem Rate and the Rate-Setting Methodology

In the rule, CMS proposes updated, unadjusted federal SNF PPS rates for FY 2022. To set the proposed rates, the agency has developed a SNF market basket index that includes the most commonly used cost categories for SNF routine services, ancillary services, and capital-related expenses.

In determining the FY 2022 SNF PPS unadjusted federal per diem rates, CMS also proposes to apply a net SNF market basket update factor of 1.3 percent. This reflects a market basket increase of 2.3 percent, less a 0.8 percent forecast error correction and less a projected 0.2 percentage point multi-factor productivity adjustment (MFP). CMS then proposes to reduce the per diem base rates by \$0.02 to reflect new exclusions of payment for treatment, items, and services related to blood clotting factors indicated for patients with hemophilia and other bleeding disorders, as per the passage of a recent federal statute. As such, the updated, unadjusted federal rates for FY 2022, prior to any adjustment for case mix but including the reductions for blood clotting factor use, are as follows:

FY 2022 Unadjusted Federal Rate Per Diem

Rate Adjustment	PT	OT	SLP	Nursing	NTA	Non-case-mix
<i>Urban</i>	\$62.84	\$58.49	\$23.46	\$109.55	\$82.64	\$98.10
<i>Rural</i>	\$71.63	\$65.79	\$29.56	\$104.66	\$78.96	\$99.91

The new federal rate will also be adjusted to account for a facility's case mix by using a classification system that accounts for the relative resource utilization of different patient types. CMS finalized the new case-mix classification model, the PDPM, and it became effective October 1, 2019. The PDPM uses clinical data from the MDS to assign case-mix classifiers to each patient that are then used to calculate a per diem payment under the SNF PPS.

In addition, CMS proposes to adopt the March 2020 labor market delineations from the U.S. Office of Management and Budget (OMB) as per long standing policy, but the agency notes that specific wage index updates will not be necessary for FY 2022, because the delineation changes in the 2020 OMB bulletin do not impact the CBSA-based labor market area delineations adopted in FY 2021.

Other SNF PPS Issues

The agency proposes to revise the market basket index and update the base year from 2014 to 2018. The agency believes that the 2018 Medicare cost reports represent the most recent, complete set of Medicare cost report (MCR) data available to develop SNF cost weights in the proposed rule.

Specifically, CMS proposes to develop cost category weights for the 2018-based market basket in two stages. First, the agency proposes deriving eight major expenditures or cost weights from the 2018 MCR data: Wages and Salaries; Employee Benefits; Contract Labor; Pharmaceuticals, Professional Liability Insurance; Home Office/Related Organization Contract Labor; Capital-related; and an "All Other" category that would reflect all remaining costs that are not captured in the other categories. The agency calculated the same cost categories using the 2014 MCR data for the 2014-based SNF market basket. Second, CMS is proposing to divide the "All Other" category into 19 detailed subcategories based on data from the U.S. Department of Labor (DOL). The proposed rule also includes updated labor-related services cost categories designed to reflect the relative importance of labor-intensive market basket categories that vary with, or are influenced by, the local labor market. CMS then proposes to use selected wage and price proxies, generally from DOL, to represent the rate of change in each category. This recalculation allows CMS to create a market basket that is representative of freestanding SNF providers serving Medicare patients.

In addition, CMS proposes several changes to the PDPM ICD-10 code mappings and list. Generally, the agency seeks to change the assignment of several codes to promote more accurate clinical category assessments.

Lastly, the agency seeks comment regarding the recalibration of the PDPM parity adjustment to ensure that the PDPM is implemented in the intended budget neutral manner. Since its implementation in the FY 2019 SNF PPS rule, CMS has observed a "significant difference" between SNF PPS payments, case-mix utilization and what would be expected based on historical data. Based on FY 2020 data, it appears that rather than

achieving parity, the FY 2020 parity adjustment may have "inadvertently" triggered a "significant increase in overall payment levels under the SNF PPS." CMS is also concerned about the impacts that the PHE has likely had on SNF PPS utilization data. As such, the agency presents a potential recalibration methodology developed to address these issues.

SNF Quality Reporting Program (QRP)

The SNF Quality Reporting Program (QRP) currently uses 13 measures for the FY 2022 SNF QRP. In the Proposed Rule, CMS seeks to add two new measures for the SNF QRP beginning with the FY 2023 SNF QRP for which it seeks input. These include the SNF Healthcare-Associated Infections Requiring Hospitalization measure and the COVID-19 Vaccination Coverage among Healthcare Personnel measure. Although neither measure is endorsed by the National Quality Forum, CMS intends to submit these proposed measures to the National Quality Forum for consideration of endorsement when feasible. CMS also seeks comment on its proposal to update the denominator for one existing measure; the Transfer of Health Information to the Patient - Post-Acute Care, to exclude residents discharged home under the care of an organized home health service or hospice. In addition, CMS has provided several future SNF QRP measures for which it is seeking input through a request for information, including future plans to define digital quality measures for the SNF QRP and the potential use of Fast Healthcare Interoperable Resources for digital quality measures within the SNF QRP, aligning where possible with other quality programs.

SNF Healthcare Associated Infections Requiring Hospitalization (SNF HAI) Measure

Recognizing that more than half of all healthcare-associated infections (HAIs) are potentially preventable and acknowledging that HAIs are associated with longer lengths of stay, use of higher-intensity care, increased mortality, and high health care costs, CMS emphasized the importance of monitoring SNF HAI rates. This will not only prevent and control HAIs in SNFs, but also to predict those SNFs more likely to have higher rates of infection in future pandemics. CMS explains that this measure would target all HAIs serious enough to require admission to an acute care hospital. Acknowledging the current COVID-19 public health emergency, CMS believes that this measure would promote patient safety and increase the transparency of the quality of care in the SNF setting.

COVID-19 Vaccination Coverage Among Healthcare Personnel Measure

CMS believes it is important to require that SNFs report healthcare personnel vaccination data in order to assess whether SNFs are taking steps to limit the spread of COVID-19 among their healthcare personnel, reduce the risk of transmission of COVID-19 within their facilities, and to help sustain the ability of SNFs to continue serving their communities through the public health emergency and beyond. Although SNFs are currently required to submit certain COVID-19 data, the reporting of healthcare personnel and resident COVID-19 vaccination data is voluntary. In terms of how this data would be reported, CMS is proposing to require that SNFs submit data on the COVID-19 Vaccination Coverage among healthcare personnel measure through the Centers for Disease Control and Prevention's National Healthcare Safety Network, which is a secure, internet-based surveillance system maintained by the Centers for Disease Control and Prevention.

Request for Information for SNF Quality Reporting Program (QRP) Quality Measures under Consideration for Future Years

Among other proposed initiatives, CMS seeks input on future plans to define digital quality measures for the SNF QRP. It requests feedback on the potential use of Fast Healthcare Interoperable Resources for digital quality measures within the SNF QRP, aligning where possible with other quality programs. Fast Healthcare Interoperable Resources is a free and open source standards framework (in both commercial and government settings) created by Health Level Seven International, that establishes a common language and process for all

health information and technology. CMS specifically seeks comments on steps which would enable transformation of CMS' quality measurement enterprise to be fully digital.

SNF Value-Based Purchasing (SNF VBP) Program

Acknowledging the importance of implementing the SNF Value-Based Purchasing (VBP) toward transforming how payment is made for care, moving increasingly towards rewarding better value, outcomes, and innovations instead of merely rewarding volume, CMS seeks comment on a number of initiatives and proposals related to the SNF VBP Program. These include: proposed flexibilities for the SNF VBP Program in response to the COVID-19 public health emergency, including a proposal to suppress the SNF Readmission Measure (RM) for the FY 2022 SNF VBP Program Year; proposed revisions to the SNF 30-Day All-Cause RM Risk Adjustment Look-Back Period for the FY 2023 SNF VBP Program; and potential future measures for the SNF VBP Program. CMS also seeks comments on its proposals to update and codify the Phase One Review and Correction Claims "Snapshot" Policy and to update the instructions for a SNF to request an extraordinary circumstances exception.

Proposed Flexibilities for the SNF VBP Program in Response to the COVID-19 Public Health Emergency (PHE)

While recognizing various factors related to the COVID-19 PHE, CMS is proposing to adopt a policy for the duration of the PHE for COVID-19 that would enable it to suppress the use of SNF Readmission Measure (RM) data for the purposes of scoring and payment adjustments in the SNF VBP Program, if it determines that circumstances caused by the COVID-19 PHE have affected the measure and the resulting performance scores significantly. CMS also developed a number of proposed Measure Suppression Factors to guide its determination to suppress the SNF RM for one or more program years that overlap with the COVID-19 PHE, for which it seeks input:

1. Significant deviation in national performance on the measure during the PHE for COVID-19, which could be significantly better or significantly worse compared to historical performance during the immediately preceding program years.
2. Clinical proximity of the measure's focus to the relevant disease, pathogen, or health impacts of the PHE for COVID-19.
3. Rapid or unprecedented changes in:

Clinical guidelines, care delivery or practice, treatments, drugs, related protocols, equipment, diagnostic tools or materials; or

The generally accepted scientific understanding of the nature or biological pathway of the disease or pathogen, particularly for a novel disease or pathogen of unknown origin.

4. Significant national shortages or rapid or unprecedented changes in:

Healthcare personnel;

Medical supplies, equipment, or diagnostic tools or materials; or

Patient case volumes or facility-level case mix.

CMS also invites comment on the following issues:

- Whether it should consider adopting a measure suppression policy that would apply in a future national PHE; If so, whether under such a policy, it should have the flexibility to suppress quality measures without specifically proposing to do so in rulemaking.
- Whether it should in future years consider adopting any form of regional adjustment for the proposed measure suppression policy that could take into account any disparate effects of circumstances affecting hospitals around the country that would prompt the agency to suppress a measure.
- Whether, in future years and for future PHEs, should they arise, it should, rather than suppress a measure completely, consider a suppression policy with more granular effects based on its assessment of the geographic effects of the circumstances; If so, how region based measure suppression could be accounted for within the program's scoring methodology.

In addition to proposing to suppress the use of SNF RM data for purposes of scoring and payment adjustment in the FY 2022, as described above generally, CMS also proposes revising the SNF RM risk adjustment look-back period for the FY 2023 SNF VBP Program.

Proposed Future Measures for the SNF VBP Program

In terms of potential future measures for the SNF VBP Program, CMS is seeking input on the following measures and concepts:

- Which measures it should consider adding to the SNF VBP Program.
- Measures on clinical topics not included in the SNF QRP's measure set because CMS believes that other clinical topics would be helpful to its efforts to robustly assess the quality of care furnished by SNFs.
- Measures already required for LongTerm Care Facilities, which include both SNFs and nursing facilities to collect and report under other initiatives; whether the measure in an expanded SNF VBP measure set should require SNFs to collect data on all residents in the facility, regardless of payer.
- Additional proposed measures it could add to the SNF VBP Program measure set and which of these measures would be best suited for the program, including measures focused on staff turnover as well as two patientreported measures to assess residents' views of their healthcare.

Key Takeaways

It is clear that consequences from the COVID-19 public health emergency are still affecting SNFs and other providers; and in fact, CMS even alluded to the necessity for the SNF HAI Measure proposal to predict "those SNFs more likely to have higher rates of infection in future pandemics." [86 Fed. Reg. at 19992](#). Certainly, the proposed changes to the SNF VBP Program are directly related to COVID-19, since CMS acknowledged that SNF readmission scores may be distorted and result in skewed payment initiatives and inequitable payments, particularly for SNFs that treated more COVID-19 patients than others. As noted in our discussion of the SNF PPS Final Rule for FY 2021, we likely will continue to see the COVID-19 pandemic playing a role and influencing reimbursement approaches for the SNF PPS and other CMS payment systems.

For more information please contact or anyone on Baker Donelson's Reimbursement team.