

Insights

CMS Proposes New Rules Aimed at Reshaping Medicare Payment Policies

August 26, 2019

By: Andrew W. Breck and Meghan M. Linvill McNab

On July 29th, CMS jointly released its Proposed Rules for the 2020 Medicare Physician Fee Schedule and 2020 Hospital Outpatient Prospective Payment System that would update Medicare payment policies aimed at increasing price transparency, improving quality, and reducing burdens on providers. Some of the potentially significant changes are summarized below.

- Increasing Price Transparency of Hospital Charges: The Proposed Rule would apply broadly to any licensed entity operating as a hospital under State law. Hospitals would be required to make public, in a manner that is consumer-friendly, its standard charges including both the gross charges and payer-specific negotiated charges for a limited set of "shoppable services", meaning services that can be scheduled by a consumer in advance. Specifically, hospitals would have to provide this information online in a machine-readable format and update the information annually. Potential enforcement penalties would include monetary fines and posting a description of the monetary penalties on a CMS website.
- Easing Supervision Requirement of Outpatient Therapeutic Services in Hospitals and Critical Access Hospitals (CAHs): The Proposed Rule would change the minimum level of required physician supervision for all hospital outpatient therapeutic services provided at all hospitals and CAHs from direct supervision to the more lenient general supervision standard. Under general supervision, the procedure must be furnished under the physician's overall direction and control but would not require the physician's presence during the actual performance of the procedure.
- Changes to Inpatient Only List (IPO): The Proposed Rule would remove Total Hip Arthroplasty from the IPO making it an eligible procedure to be performed in either a hospital inpatient or outpatient setting. In order to allow time for implementation of both this change and any future changes to the IPO, the rule would establish a

one-year exemption from medical review activities for procedures that are removed from the IPO.

- Payment for Evaluation and Management (E/M) Services: For outpatient visits, the Proposed Rule would keep the five levels of coding for established patients but would reduce to four levels of coding for new patients. Changes would be made to the times and medical decision-making process for every CPT code and would also only require a history and physical examination as deemed medically appropriate.
- Easing Physician Supervision Requirements for Physician Assistants (PAs): In an effort to offer more flexibility to PAs, the Proposed Rule would establish that the physician supervision requirement for PA services would be met when a PA furnishes their services in accordance with State law and scope of practice rules for PAs in the State in which the services are furnished. If there is no State law governing physician supervision of PA services, the physician supervision required by Medicare for PA services would be evidenced by documentation in the medical record of a PA's approach to working with physicians in furnishing their service.

Please note that any comments on the Proposed Rule will need to be submitted to CMS by September 27th. If you have any questions related to the Proposed Rules or would like additional information about this topic, please contact Andrew W. Breck or Meghan M. Linvill McNab.