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Insights

FSSA Extends and Updates Indiana's Hospital Assessment Fee Program

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On May 17, 2018, the Family and Social Services Administration (“FSSA”) published a final rule, LSA Document #17-552 (“Final Rule”), to update and extend Indiana’s Hospital Assessment Fee (“HAF”) program.[1] The Final Rule amends 405 IAC 1-8-5 and 405 IAC 1-10.5-7 to extend the HAF program through June 30, 2019. The Final Rule also removes the HAF adjustment factors from administrative code, as well as the current frequency limitation for updating the HAF adjustment factors. The Final Rule is effective 30 days after its filing.[2]

The HAF is an existing program that was authorized by the Indiana General Assembly during the 2011 legislative session through the state’s biennial budget,[3] which was reauthorized in both 2013 and 2017 through the same mechanism.[4] The HAF is assessed against all licensed acute hospitals and private psychiatric hospitals and is designed to increase hospital inpatient and outpatient reimbursement to align with the level of payment that would be paid under the federal Medicare program.

Currently, the HAF program has a sunset date set in statute, requiring the Indiana General Assembly to periodically assess, review, and reauthorize the program.[5] Accordingly, during the 2017 legislative session, House Enrolled Act 1001extended the expiration date of the HAF program from June 30, 2017, to June 30, 2019.[6] FSSA’s promulgation and adoption of the Final Rule therefore updates Indiana’s administrative code to match the statutory changes made during the 2017 legislative session, and extends both the inpatient and outpatient HAF through June 30, 2019.[7]

The Final Rule also updates the HAF adjustment factors for both the inpatient and outpatient HAF. The HAF adjustment factors allow for aggregate payments that reasonably approximate the federal Medicare upper payment limit (“UPL”), but do not result in payments in excess of the federal Medicare UPL.[8]

Prior to the promulgation and adoption of the Final Rule, the HAF adjustment factors were contained in the administrative code and could not be changed more frequently than once every six (6) months. Going forward under the Final Rule, the HAF adjustment factors will be published in FSSA’s provider bulletins, rather than being set by administrative rule. Further, there will no longer be a limitation on how often the HAF adjustment factors can be updated.[9]

Publishing the HAF adjustment factors through FSSA’s provider bulletins will allow FSSA to adjust the factors more regularly, based upon the changes in the UPL calculation each year, without having to revisit and revise the administrative code, which can take often take 12 to 18 months. This mechanism will also allow the HAF adjustment factors to be updated for a brief period of time should there be a delay in finalizing the UPL calculation.

Importantly, on July 2, 2018, FSSA's Indiana Health Coverage Programs ("IHCP") published its first provider bulletin revising the HAF adjustment factors for outpatient reimbursement and inpatient diagnosis-related group ("DRG") reimbursement ("Bulletin").[10] Effective August 1, 2018, these revised HAF adjustment factors will apply to both fee-for-service and managed care delivery systems, including reimbursement under the Healthy Indiana Plan, Hoosier Care Connect, and Hoosier Healthwise programs.

For dates of service on or after August 1, 2018, the revised HAF adjustment factors are as follows:

- The revised adjustment factor for the inpatient DRG base rate is 3.1 (previously 2.7).
- The adjustment factor for the inpatient rehabilitation level-of-care ("LOC") rate is 2.6 (no change).
- The adjustment factor for the inpatient psychiatric LOC rate is 2.2 (no change).
- The adjustment factor for the inpatient burn LOC rate is 1.0 (no change).
- The revised adjustment factor for the outpatient rates, excluding laboratory services, is 3.0 (previously 2.7).

If you have any questions regarding this Final Rule, Bulletin, or related matters, please contact Tom Hutchinson at thutchinson@kdlegal.com, or your regular Krieg DeVault attorney.

[1] LSA Document #17-552, Final Rule: http://www.in.gov/legislative/iac/20180516-IR-405170552FRA.xml.pdf

[2] *Id*.

[3] HEA 1001 (2011), available at: http://www.in.gov/legislative/bills/2011/PDF/HE/HE1001.1.pdf

[4] HEA 1001 (2013), available at: http://www.in.gov/legislative/bills/2013/PDF/HE/HE1001.1.pdf and HEA 1001 (2017), available at: http://iga.in.gov/legislative/2017/bills/house/1001

[5] Ind. Code § 16-21-10 -21.

[6] *See* HEA 1001 (2017).

[7] 405 IAC 1-8-5 and 405 IAC 1-10.5-7.

[8] *See* 42 CFR 447.321.

[9] 405 IAC 1-8-5 and 405 IAC 1-10.5-7.

[10] IHCP Bulletin, available at: http://provider.indianamedicaid.com/news,-bulletins,-and-banners/news-summary/ihcp-revises-haf-adjustment-factors-for-outpatient-and-inpatient-rates.aspx