

## Eli's Rehab Report

### Reimbursement: CMS Uses ACA to Justify Cuts in LUPA Payments

**Commenters express a wide range of concerns about LUPA payments.**

Home health agencies and therapists are bracing for LUPA payment changes in the New Year. The rebased calculations in the home health prospective payment system (HH PPS) finalized by the **Centers for Medicare & Medicaid Services** (CMS) also affect LUPA rates in 2014. Since the 3.5 percent rebasing cap is based on 2010 figures rather than 2013 ones, the LUPA rates have actually come down even further from those proposed in June.

"Since the Affordable Care Act states that the adjustment(s) may be no more than 3.5 percent in a given year, we proposed an increase to each of the six per-visit payment rates of 3.50 percent in each year from CY 2014 through CY 2017," the CMS points out in the 2014 HH PPS final rule published in the Dec. 2 Federal Register.

"Given the interpretation of the 3.5 percent limit as of the date of enactment of the Affordable Care Act ... the LUPA per-visit amounts will be increased by the maximum dollar limit calculated using CY 2010 payment amounts," CMS says later in the rule. "This results in slightly lower increases to the LUPA rates than originally proposed in the CY 2014 HH PPS proposed rule" (see chart, p. 6, for amounts).

Commenters also expressed a wide range of concerns about LUPA payments, from not paying agencies enough for vulnerable LUPA patients to increased LUPA rates giving agencies incentives for care stinting.

**LUPA scrutiny:** "We share commenters' concerns about the incentive issues surrounding LUPA payments," CMS says in the rule. "We plan to monitor LUPA episodes and further examine LUPA related payment policies."

**Another change:** "We will use three LUPA add-on factors in calculating the LUPA add-on payment amount for LUPA episodes that are the only episode or the first episode in a sequence of adjacent episodes," CMS confirms in the rule. "Creation of three LUPA add-on factors will result in more accurate LUPA add-on payments reflecting the discipline that performed the initial assessment visit."

Instead of one LUPA add-on amount (\$95.85 and \$98.73 this year, respectively, for non-rural and rural areas), CMS will use the three different add-ons depending on whether the first visit was made by a nurse, physical therapist or speech therapist.

The proposed LUPA add-on factors are 1.8451 for SN (down from the proposed 1.8714); 1.6700 for PT (down from the proposed 1.6841); and 1.6266 for SLP (down from the proposed 1.6293).

**For example:** If a nurse makes the first LUPA visit, Medicare will pay \$223.44, CMS says in the rule. Even the lowest-paid LUPA for SLP at \$196.98 will very nearly double the current LUPA rate.

#### Prepare For Lower Supplies Payments

"The rebasing adjustments will reduce the NRS conversion factor in each year from CY 2014 to CY 2017 by 2.82 percent," CMS notes in the rule. That's a bigger decrease than the proposed 2.58 percent reduction due to updated data, notes the **National Association for Home Care & Hospice** in its analysis of the rule.

Finally, as proposed, CMS makes no changes to its outlier policy in the rule. "We believed that maintaining an FDL of 0.45 and a loss-sharing ratio of 0.80 are appropriate given the percentage of outlier payments is estimated to increase as a result of ... increasing the national per-visit amounts through the rebasing adjustments," CMS says in the final rule. "The

claims data showing any utilization changes that may have resulted from decreasing the FDL of 0.45 in CY 2013 would not be available for analysis until next year."

This leaves money on the table, NAHC fumes. "CMS estimates that only 2.07 of the 2.5 percent outlier budget will be expended with these standards," the trade group says. "If CMS forecasting is accurate, the result will be that home health agencies are deprived of \$78 million in outlier funding."