Eli's Hospice Insider

Budget: MedPAC Calls For Rate Freeze For Hospice Payment Rates Next Year

Advisory body to Congress casts suspicion on for-profits, nursing homes.

As legislators start to ramp up their budget work, the **Medicare Payment Advisory Commission** is urging them to leave hospices out in the cold next year.

At its Jan. 14 meeting, MedPAC commissioners approved a recommendation to Congress to eliminate hospices' Medicare payment rate increase for 2017. The official recommendation will be included in the Commission's annual March report to Congress.

Increases in spending and utilization (see box, p. 19) formed the basis for MedPAC's recommendation, which is a repeat from last year. Congress did not adopt the proposal for 2016, however.

Hot Spot #1: Utilization

MedPAC staff and commissioners made note of the rapid increase in hospice users over the last decade. The change from 23 to 48 percent of Medicare decedents entering hospice "has been a pretty big climb," said MedPAC staffer **Kim Neuman** in the January meeting.

While hospice utilization is growing overall, "the over-85 population is notable ... for quite rapid growth," Neuman added in the meeting.

But: "It's nice to see that more Medicare beneficiaries are using the hospice benefit," cheered Commissioner **Rita Redberg**, a cardiologist at the **University of California at San Francisco Medical Center**, in MedPAC's December meeting.

Medicare's goal has actually been to increase hospice use when appropriate and reduce hospital and other pricier services. Thus, climbing utilization should be good news, the industry contends.

In its January meeting, however, MedPAC Executive Director **Mark Miller** cast doubt on studies showing that hospice use lowers overall Medicare costs for beneficiaries. "There are studies out there that, depending on the methodology, say one thing and a different methodology say[s] different things," Miller said.

In fact, in 2015, MedPAC "published a study aimed at rebutting a series of studies showing that hospices save Medicare money," notes attorney **Brian Daucher** with law firm **Sheppard Mullin** in Costa Mesa, Calif. "On a specific sample of patients, MedPAC concludes that hospice is either revenue neutral or slightly additive to costs. MedPAC blames the lack of savings again on long stay patients, failing to consider the possibility that the additional expense for the very short stay population afford[s] no possibility of conserving resources on heroic end-of-life health care," Daucher said in a recent analysis.

Miller said he expected MedPAC to consider the study's findings in next year's cycle.

Commissioners asked where they could expect hospice use to top out, so to speak. "Is there kind of a natural plateau that we would be reaching?" asked Commissioner **Cori Uccello** with the **American Academy of Actuaries**.

Neuman didn't have a specific target. "It's hard to say," she told commissioners. "We do know that there is variation across states in hospice use rates, and we have some states that are in the 60 range," she offered.

Hot Spot #2: For-Profits

As usual, MedPAC aimed criticism at the for-profit portion of the industry. Up until 2016, the industry's straight per diem payment methodology "means providers have had opportunities to focus on more profitable patients if they wish to do so," Neuman noted in the December meeting. That's why "for-profit providers have substantially longer lengths of stay than nonprofits in 2014, 107 days versus 67 days, on average. And the higher lengths of stay among for-profits is observed for all diagnoses."

As utilization skyrocketed in the 2000s, MedPAC was approached by industry stakeholders, asking the commission to take a hard look at hospice, Miller recounted in the January meeting. New for-profit entrants were taking "a business model approach to things," he said. "They figured out that on this daily rate, it's very profitable ... to get the person in early."

"Providers with longer stays have higher margins," Neuman confirmed.

That's why MedPAC had recommended U-shaped payment reform, with higher payment rates at the beginning and end of a hospice stay. Instead, the **Centers for Medicare & Medicaid Services** opted for higher daily payment rates for the first 60 days of care, then Service Intensity Add-on payments that may or may not apply in the last seven days of care. Still, the adopted reform is "close to our recommendation" for the "U-shaped payment curve," noted MedPAC Chair **Francis Crosson**.

Under that methodology change that took place Jan. 1, CMS estimates redistribution of reimbursement between for- and non-profits, but it's only a few percentage points, Neuman said.

"There will still be pretty big differences, but at [least] a little bit narrower," said Commissioner **Jack Hoadley**, a professor at the **Health Policy Institute** of **Georgetown University** in Washington, D.C.

Hot Spot #3: Profit Margin

Profit margins between for- and non-profits are one of the areas of stark difference, with 14.7 percent for-profit versus 1.2 percent non-profit. On average, the margin for 2013 was 8.6 percent.

Neuman did acknowledge that "non-reimbursable costs, which includes bereavement costs and the non-reimbursable portion of volunteer costs," are not included in those margins. Hospices often criticize MedPAC margin estimates for that reason.

But even "if those costs were included, it would reduce our margin estimates by at most 1.7 percentage points," Neuman said.

Hot Spot #4: Live Discharges

Both the feds and mainstream media have been beating the drum about hospice live discharges for years now.

Accordingly, live discharge rate decreased from 18.4 percent in 2013 to 17.2 percent in 2014.

"Some live discharges from hospice are expected because a patient may improve and no longer meet the eligibility criteria, or because a patient may change their mind and decide to return to conventional care," Neuman acknowledged.

But don't expect scrutiny of this factor to let up. "If a provider has a live discharge rate that is substantially higher than other hospices, it raises questions about that provider," Neuman said in the December meeting. "For example, it might be a signal that the provider is not meeting patients' needs or that the hospice is admitting patients that do not meet the eligibility criteria."

Expect reviewers ranging from MACs to ZPICs to target this statistic.

Hot Spot #5: Site Of Service

Nursing home and assisted living facility residents have significantly longer lengths of stay than patients in their own homes (see story, front page). MedPAC casts a jaundiced eye on the arrangement. Expect more scrutiny on this matter.

Claims-Based Quality Measures Loom

Bottom line: "Given the margin in the industry and our other payment adequacy indicators, we anticipate that providers can cover cost increases in 2017 without any increase in their payment rates, so this draft recommendation would be expected to have no adverse impact on beneficiaries nor providers in terms of their ability or willingness to care for Medicare beneficiaries," MedPAC said in finalizing the recommendation.

Watch for: MedPAC noted that hospice didn't have quality measures in place to help judge payment adequacy. Hospice CAHPS measures are being implemented this year, but "CMS, MedPAC, and others have talked about the idea of using claims data for quality measures," Neuman noted in December. "We intend to do future work to explore options for several different kinds of measures."