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Budget: MedPAC Doubles Down On Rate Freeze, Cap Cut Recs To Congress

Broad cuts will harm innocent providers, hospices warn.

If you think MedPAC is going to lay off hospice providers and their payment rates any time soon, think again. The advisory body's new report to Congress shows why.

The Medicare Payment Advisory Commission points to a range of data including profit margins, increased spending, a higher ratio of for-profit providers, and "substantial investment interest from private equity firms and investors” as reasons Congress should freeze hospice payment rates in 2023 and cut the per beneficiary cap amount by 20 percent.

For example: Hospices' profit margin in 2019, the latest year available, averaged 13.4 percent, MedPAC says. That's up from 12.4 percent in 2018.

In particular, the cap cut "would focus payment reductions on providers with disproportionately long stays and high margins, while leaving the majority of providers unaffected,” MedPAC claims in its latest annual March report to Congress.

But the proposal goes much further than that, argues the National Hospice and Palliative Care Organization. "Up to 30 percent of hospices will have cap overpayment requirements with this proposal,” warns NHPCO's **Judi Lund Person**. "This approach is like taking a sledgehammer to the issue when a scalpel is needed,” Lund Person tells AAPC.

"NHPCO has been supportive of other program integrity measures that are more targeted and should be considered before this recommendation is adopted,” Lund Person adds.

"We have had longstanding concerns about MedPAC's treatment of home health, and the Commission is now on a similar path for hospice care with its recommendations that there be no recognition of cost inflation in 2023 rate setting and the dangerous proposal to reduce the annual aggregate cap by 20 percent,” says National Association for Home Care & Hospice President **William Dombi**.

Problem No. 1: "MedPAC relies on Medicare cost reports that intentionally do not include all hospice costs, such as bereavement support,” Dombi points out in NAHC's member newsletter.

Problem No. 2: "It is readily apparent that the cap reduction proposed would disadvantage any hospice that serves patients with non-cancer diagnoses, such as dementia, as these patients tend to increase risk of exceeding the cap,” Dombi notes. "We must condemn any proposal that would diminish the breadth of the hospice benefit, particularly one that could trigger the loss of care access for certain patient populations,” he says.

"While NAHC welcomes targeted, data-driven program integrity solutions that focus on truly fraudulent or abusive provider behavior, a 20 percent cap cut is a blunt tool that would negatively impact access to care by introducing disincentives to serve patients that have a more unpredictable disease trajectory, such as those with dementia,” the trade group maintains.

Problem No. 3: "The cap reduction recommendation could further exacerbate health disparities in hospice access and utilization," NAHC warns. "The individuals most likely to have their access to hospice impacted by the cap reduction (those with dementia and other neurological diagnoses) are also more likely to be from underserved minority communities that already have lower rates of hospice utilization and poorer end-of-life care outcomes."

Problem No. 4: "By disincentivizing hospice care for certain patients, a 20 percent cap reduction could result in increased overall Medicare outlays," NAHC cautions. "Those individuals who might have received cost-saving hospice care end up utilizing more expensive and aggressive care such as hospital, ER, and nursing home services," the advocacy group notes.

"Research has shown that hospice use by Medicare beneficiaries is associated with significantly lower total health care costs across all payers, without cost-shifting to families," NAHC reminds.

"These cuts, if adopted by Congress, could have devastating effects on hospice providers … that are already operating on very tight margins," warns attorney **Jennifer Weaver** with law firm Waller Lansden Dortch & Davis in Nashville, in online analysis.

The rate freeze and cap cut would slash Medicare spending by up to $750 million in 2023 and up to $10 billion over five years, MedPAC estimates.

The good news is that "MedPAC's recommendations are not required to be implemented," NAHC reminds. "MedPAC is solely an advisory body to Congress. It would take specific congressional action to put any recommendations into effect."

And Congress has ignored MedPAC's recommendations for a while. However, the tide may turn with the hospice industry's increasing reputation as fraud-infested at worst and overpaid at best. "In 2020, [Routine Home Care] payment rates remained substantially above cost," the Commission highlights in the report. "Aggregate payments are more than sufficient to cover providers' costs," the report maintains.

While MedPAC urges lawmakers to make the across-the-board rate freeze and cap cut, it also continues to advocate in the report for more specific actions that it has recommended in the past, including monitoring and/or audits for:

- services to patients in skilled nursing facilities and assisted living facilities (plus a potential rate reduction for services to such patients);
- hospices that significantly exceed the cap;
- hospices with high live discharge rates; and
- hospices with long average lengths of stay.

Note: MedPAC's report is at
https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_SEC.pdf.