

## Eli's Hospice Insider

### MEDICARE: Hospice Cuts Softened, but Still Pack a Wallop

Feds stretch BNAF phase-out over 7 years.

Get ready for a little less money and a little more paperwork in 2010.

In a surprise move, the Centers for Medicare & Medicaid Services softened the blow of the wage index cut known as the budget neutrality adjustment factor (BNAF) phase-out. Instead of getting rid of the BNAF over two years, CMS will do away with the reimbursement-boosting adjustment over seven years, CMS says in its final rule for the 2010 hospice wage index. CMS will eliminate 10 percent of the BNAF in 2010, then 15 percent of it every year through 2016, according to the rule published in the Aug. 6 Federal Register.

The bottom line: Starting Oct. 1, that will give hospices a 1.4 percent overall reimbursement increase -- the 2.1 percent market basket inflation update minus the 0.7 percent BNAF phase-out.

Background: Originally, CMS planned to phase out the BNAF from 2009 to 2011, but Congress blocked the 2009 cuts. Then, CMS said it intended to phase out 75 percent of the BNAF in 2010 and the rest in 2011. That would have given hospices a 1.1 percent overall cut in Medicare payment rates for 2010.

"This more gradual phase-out provides opportunity for CMS to consider the effects of a reduction in payments in the context of hospice payment reform, which is under consideration," the agency said in a release.

The change is at least a partial victory, hospice proponents say. The delay is "thanks to the efforts of hospices from across the country," cheers the National Association for Home Care & Hospice.

But hospices aren't ready to concede the point. NAHC "appreciates CMS's efforts to soften the impact of the BNAF elimination," the trade group says. But it "continues to oppose its elimination and will continue to work with the Congress and the White House to fully restore the BNAF to the hospice wage index." The BNAF reduction will be especially punishing if Congress chooses to finalize pending legislation that cuts hospice rates based on so-called "productivity adjustments," NAHC adds.

#### Prepare To Collect New Doc Narrative Statement

CMS did stick to its guns on its proposal to collect "a narrative on the certification and recertification describing the clinical justification for the patient's terminal prognosis." Starting Oct. 1, physicians will have to fill out this new statement at cert and recert.

The statement can be part of the cert/recert form or an addendum to it, NAHC notes. It could mean obtaining two signatures from the certifying physician -- one for the cert or recert and one for the statement.

The statement was the brainchild of the Medicare Payment Advisory Commission, which recommended the tool to curb long-stay hospice patients.

#### More Changes in the Works

The rule included numerous other changes, including the following:

- Cap appeals. "The timeframe for appeals of cap calculation results begins with receipt of the determination of program reimbursement letter,"

CMS clarifies in the rule. All non-caprelated appeals follow usual Medicare appeals timelines, the agency adds.

- Supplies. "Because the hospice is not responsible for providing the care for ... unrelated comorbidities [on the plan of care], we are revising §418.202(f) to state that medical supplies covered by the Medicare hospice benefit include only those that are part of the plan of care and that are for the palliation or management of the terminal illness or related conditions."

Confusion arose because the new hospice conditions of participation (COPs) require listing unrelated comorbidities on the POC, CMS noted in the rule.

- GIP. Sometimes patients receiving general inpatient (GIP) care get downgraded to routine care, but can't go home for some reason. In that case, when an inpatient day is provided and billed as a routine one, don't count it toward the inpatient cap calculation. "Only inpatient days in which GIP or respite care is provided and billed are counted as inpatient days when computing the inpatient cap," CMS instructs.

More to come? CMS is still considering some of the proposals in the proposed rule, including requiring physician visits before cert/recert, reconfiguring the hospice cap, and restructuring hospice benefit payment based on MedPAC suggestions.

Note: The final wage index rule is at <http://edocket.access.gpo.gov/2009/pdf/E9-18553.pdf>.