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Payment: Joint Replacement Bundling Includes Hospice Services

Controversy over what's related and what's not continues.

Over provider protest, the **Centers for Medicare & Medicaid Services** has chosen to include hospice payments in its Comprehensive Care for Joint Replacement (CJR) model calculations, as long as the services are deemed related. But what CMS and hospices consider related appears to vary widely.

Recap: In July 2015, CMS proposed the model for 75 metro areas starting Jan. 1, 2016. CMS then finalized the program in November for 67 areas affecting about 800 hospitals in 33 states. CMS bumped the start date to April 1. Under the model, CMS will track all Medicare fee-for-service costs for hip or knee replacement patients for the "CJR episode," which includes 90 days post-hospital discharge. If a hospital's CJR patients' average cost comes in above a set "target price," CMS will require a repayment.

If its average cost comes in below a target, Medicare will pay the hospital an add-on bonus. The model is mandatory, but there is an exclusion for hospitals participating in other payment bundling programs under the Bundled Payments for Care Improvement initiative.

Concern: "While it is commendable for CMS to consider the needs of persons with limited life expectancy ... there are some fundamental differences in the hospice patient population that may influence the evaluation of this model," the **Texas Association for Home Care & Hospice** told CMS in its comment letter on the CJR proposed rule. "Persons receiving hospice care have advanced serious illnesses and, despite their extensive training and clinical expertise, hospice providers sometimes report difficulties in making relatedness determinations for complex patients. Therefore it is likely that CMS reviewers will have difficulty making accurate determinations as to the relatedness of medications or treatments during the claims review process."

The **National Hospice & Palliative Care Organization** also shared concerns about relatedness determinations, which it covered in detail in its comment letter.

Many commenters recommended excluding hospice services from CJR calculations altogether. The BCPI models already do so, they noted.

Result: A list of ICD-10 codes considered related is pending, CMS says on its CJR website. But hospice services aren't automatically unrelated, CMS contended in the final rule. "The beneficiary could be enrolled in hospice prior to the LEJR episode, experience a pathologic hip fracture, and require THA to stabilize the beneficiary's hip," the agency offered. Or "the beneficiary could have an LEJR procedure and enter into hospice at some point ... in the 90 days following discharge from the anchor hospitalization, either after experiencing a surgical complication leading to a terminal prognosis or based on a new diagnosis of a terminal stage of an illness... Given the presurgical screening that patients must undergo before an LEJR procedure, it would be rare for a new diagnosis that would render the patient terminally ill to occur within 3 months after the LEJR procedure that was not already identified during the pre-surgical screening process."

CMS cites a 1983 hospice rule in which it said: "It is our general view that hospices are required to provide virtually all the care that is needed by terminally ill patients."

"Thus, hospice services furnished to CJR model beneficiaries should be included in the episode definition for the CJR

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model, regardless of the specific diagnosis of the beneficiary, because hospices are to provide virtually all care that is needed by terminally ill patients," CMS insists in the CJR final rule. "If a CJR beneficiary was receiving hospice services during an episode, either because the beneficiary was enrolled in hospice prior to surgery and continued in hospice following surgery or the beneficiary enrolled in hospice following surgery that initiated the CJR model episode, we believe that hospice services would encompass care related to the LEJR episode and should, therefore, be included in the episode definition."

On the hook: "Given the comprehensive nature of the hospice benefit and the fact that body systems are interdependent at end of life, virtually all care needed by the terminally-ill individual would be related to the terminal prognosis and thus the responsibility of the hospice," CMS continues. "Hospices are required ... to provide all reasonable and necessary services for the palliation and management of the terminal illness, related conditions, and interventions to manage pain and symptoms. For patients that underwent LEJR procedures as part of the CJR model that have also elected the Medicare hospice benefit, hospice services would need to adapt and respond to the care needs of the CJR beneficiary following surgery."

Hospice Access Threatened

Industry reps worry that the CJR model will encourage hospitals to take steps to limit hospice utilization for their joint replacement patients.

The **National Hospice & Palliative Care Organization** "strongly believes, and numerous studies have shown, that appropriate referral for hospice care results in high quality and more cost effective care, and we want to ensure that as CMS increasingly explores the use of alternative payment systems, beneficiaries' access to hospice care isn't adversely affected," the trade group said in its letter on the Centers for Medicare & Medicaid Services' proposed CJR rule. "We urge CMS to ... ensure that the bundled payment model does not result in inappropriate incentives or unintended consequences. For example, we would ask that CMS monitor hospice utilization by beneficiaries who have undergone LEJR procedures in hospitals subject to the bundled payment model in comparison to beneficiaries elsewhere, and determine whether any differences identified warrant further inquiry."

Result: "As in the case of other medically necessary services that would improve a beneficiary's quality of care and quality of life, we expect that CJR model beneficiaries will receive clinically appropriate referrals to hospice in a timely manner," CMS responds in the final CJR rule. "We will be monitoring for access to care and delayed care and will take actions as described if problems are found."

Bottom line: "We are finalizing our proposal to include hospice services in the CJR model episode definition," CMS confirms.

Note: CMS's CJR website is at https://innovation.cms.gov/initiatives/cjr.

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