Eli's Hospice Insider

Payment: Warning: A Drastic Cap Cut May Be In Your Future

MedPAC also considers wage adjustment for caps.

Hospices that bump against or exceed their hospice caps - often for-profit, freestanding providers - should take special notice of deliberations over reducing the cap limit, perhaps by as much as 20 percent.

Both the **Medicare Payment Advisory Committee** and the **HHS Office of Inspector General** are putting the hospice aggregate cap under the microscope, and the eventual result could be a much lower cap amount.

MedPAC took a close look at the cap in its Oct. 4 meeting, and didn't necessarily like what it saw.

For example: In 2016, 12.7 percent of hospices exceeded their cap, MedPAC staff found. Those above-cap hospices had profit margins averaging 20.2 percent before the return of cap overpayments and 12.6 percent after the return.

Above-cap agencies had substantially longer stays and higher live discharge rates, MedPAC staffer **Kim Neuman** noted in the meeting. And they tended to be for-profit, freestanding, urban, and small.

Part of the reason above-cap hospices were more often urban may be because the cap is not wage adjusted, Neuman highlighted.

Medicare may want to wage adjust and reduce the cap to lessen overpayments and make long stays less financially attractive, MedPAC suggests. If the cap dropped by 20 percent, 26 percent of hospices would have exceeded the cap (versus 12.7 percent), MedPAC estimated.

With a 20 percent cut, about half of hospices would still have been well under (41 percent or more) the cap, Neuman pointed out.

The perks: The beauty of lowering the cap is that "for-profit and freestanding hospices would experience reduced payments" while "non-profit and hospital-based hospices" would see little effect, Neuman added.

Now the OIG is piling on as well, adding the topic "Review of Hospice Inpatient and Aggregate Cap Calculations" to its Work Plan, with a report expected next year.

However, the OIG appears to be looking at the mechanics of the cap, including hospices' required self-reporting and the HHH Medicare Administrative Contractors' recoupment processes.

The **Centers for Medicare & Medicaid Services** and its contractor looked at revising the cap when they undertook hospice payment reform, but decided against it, recalls the **National Association for Home Care & Hospice** in its newsletter.

Implementing wage index adjustment would level the playing field, notes **The Health Group** in Morgantown, West Virginia. "Hospices in some areas of the country are able to provide more days of services without reaching the cap than hospices in other areas of the country solely due to the fact that cap is a national amount, whereas per-day payments are impacted by geography," the consulting firm notes in its electronic newsletter.

NAHC agrees that "the current mechanism for calculating the aggregate cap negatively impacts hospice providers in areas of the country with high wage costs ... [and] some effort to address this inequity may be in order."

However: "It is unclear how this would be achieved given that hospice services are based on the location of care and

may have variable wage indices applied," NAHC points out. Using the hospice office location may be the preferred method to avoid that problem, the trade group predicts.

The **National Hospice & Palliative Care Organization** isn't ready to accept the wage adjustment change. "We need further evidence to be assured that wage indexing will not harm beneficiaries in rural and underserved areas," NHPCO says in a letter to MedPAC after the meeting.

While wage adjusting the cap seems reasonable, a drastic cut to the cap amount does not.

The Health Group urges a healthy amount of skepticism of MedPAC's profit margin figures for above-cap hospices. For example, "hospices are still, to this day, receiving additional demands for 2016 cap year overpayments, which we doubt are included in the computed margins," the firm says.

The Health Group also cautions law- and policymakers to refrain from harming the whole industry due to some bad apples. "An across the board decrease in the individual beneficiary cap should not be the primary means of addressing significantly long lengths of stay," the firm argues. "This should be part of the claims review process for hospice benefit qualification."

Watch out: Don't be surprised to see a cap reduction recommendation included in MedPAC's annual report to Congress in March, NAHC says. The trade group will be "interested" to see the rationale and data to support such a cut, if it is advised, NAHC says.

NHPCO already opposes the cut. "We firmly believe that a 20 percent reduction to the cap on top of the wage index will impose harmful, unintended consequences on patients and are therefore strongly against this proposed policy change," the trade group says in its comment letter.

Instead: "We challenge MedPAC to look at this issue more holistically," NHPCO urges. Policy makers should consider how much hospice saves the Medicare program overall.

Note: See the MedPAC presentation at www.medpac.gov/docs/default-source/default-document-library/hospice-october-2019-for-public.pdf and the OIG Work Plan item at https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000401.asp.