

## Eli's Hospice Insider

### Regulations: Finalized Wage Index Dismisses Hospices' Concerns

**Protection against dramatic drops is good, but could be better.**

Providers' pleas to expand the protection against wage index swings and to make that protection retroactive have fallen on deaf ears. So indicates the 2023 final hospice payment rule released on July 27.

In its April proposed rule, the Centers for Medicare & Medicaid Services proposed to cap any wage index decreases from one year to another at 5 percent. CMS sticks with that proposal in the regulation scheduled for publication in the July 29 Federal Register.

"This final rule establishes, for FY 2023 and subsequent years, a permanent, budget neutral 5 percent cap on any decrease to a geographic area's wage index, so that a geographic area's wage index would not be less than 95 percent of its wage index calculated in the prior FY regardless of the circumstances causing the decline," CMS notes in its fact sheet about the rule.

In their comments on the proposed rule, many hospices and their representatives urged Medicare officials to make the wage index cap lower at 4, 3, or even 2 percent, among other changes (see Hospice Insider, Vol. 15, No. 8).

"The 5 percent cap on wage index decreases is an adequate safeguard against any significant payment reductions and ... lowering the cap on wage index decreases below 5 percent is not appropriate," CMS responds in the final rule. "We also believe that 5 percent is a reasonable level for the cap because it would more effectively mitigate any significant decreases in a hospice's wage index for future FYs, while still balancing the importance of ensuring that area wage index values accurately reflect relative differences in area wage levels."

The 5 percent point is enough to provide "a degree of predictability in payment changes for providers," CMS adds.



#### Hospices Must Live With Their Current Index Drops

CMS also shoots down requests to make the cap retroactive to 2020, which would avoid steep wage index drops for

some agencies. For example, some New Jersey agencies saw drops of 17 percent, commenters said.

"While such a policy may benefit some providers, it would change the wage index standardization factors, and would impact the FY 2023 payment rates for all providers without allowing them the opportunity to comment," CMS counters.

**Final call:** CMS "will maintain the hospice wage index as a relative measure of the value of labor in prescribed labor market areas, increase predictability of hospice payments for providers, and mitigate instability and significant negative impacts to providers resulting from significant changes to the wage index," the rule says. And "we will examine the effects of this policy on an ongoing basis in the future in order to assess its appropriateness," the agency says.

Some help is better than none, but CMS could do better, advocates say.

"We ... fully support CMS' actions to finalize the 5 percent cap on wage index decreases from one year to the next," says National Association for Home Care & Hospice President **William Dombi** in a statement shared with AAPC. But NAHC is "disappointed that CMS did not address the significant reductions that affected many hospices in 2022 that are not remedied by a prospective application of the cap at this point," Dombi stresses.

Note: A link to the 2023 final wage index is at [www.cms.gov/medicare/medicare-fee-service-payment/hospice-regulations-and-notices/cms-1773-f](https://www.cms.gov/medicare/medicare-fee-service-payment/hospice-regulations-and-notices/cms-1773-f).