

Eli's Hospice Insider

Reimbursement: Submit Your Hospice Cap Amount By March 31

CMS will include sequestration in the hospice cap calculation ☐ but not right away.

Hospices are getting a breather on being held responsible for payments they never received for their aggregate per patient cap calculation. But they'll still have to pay the piper in the long run, under newly issued instructions from Medicare.

Reminder: In a November 2014 Open Door Forum for home care and hospice providers, the **Centers for Medicare & Medicaid Services** dropped the bomb that it was planning to include sequestration dollars in hospices' cap calculations for 2013 and 2014 (see Eli's Hospice Insider, Vol. 8, No. 1). But after that announcement, CMS clammed up about the requirement and delayed issuing worksheets designed to help hospices calculate and self-report their own caps for 2014 by the March 31 deadline, as required.

Now CMS has issued instructions and the worksheets to the Medicare Administrative Contractors, and they have relayed the information via their websites (see related story, p. 28).

Good news: CMS directs hospices to NOT include sequestration amounts when calculating their own caps.

Bad news: However, MACs WILL include a substantial part of the sequestration amount when they do the final calculations of hospices' caps in the future.

More good news: The majority of hospices won't be affected by the cap calculation issue, because currently only about 12 percent of providers are over their caps, says financial expert **Tom Boyd** with **Simione Healthcare** Consultants in Rohnert Park, Calif.

More bad news: But the proportion of over-cap hospices will be on the rise in future years, Boyd tells Eli.

Beware Misleading Cap Example

Using the calculation methodology CMS provides in the worksheets, "the sample methodology WITH the sequester funds doesn't look like the impact will be huge for those that have a liability," says financial expert **Mark Sharp** with **BKD** in Springfield, Mo. "But every dollar matters in today's environment."

And hospices should be aware that the sample calculation CMS offers is "misleading," cautions attorney **Brian Daucher** with **Sheppard Mullin** in Costa Mesa, Calif. In the worksheet, CMS shows an agency with \$350,000 in revenues, with about \$266,000 of that amount over the agency's cap. Their sequestration amount is shown as less than \$600.

"That is not representative" of the typical hospice, Daucher tells **Eli**. Most hospices that are over the cap have more like 10 percent of revenues or less in cap liability, he says. That may make a big difference to the sequestration amount included in the cap calculation.

Hospices should prepare themselves to see their self-reported caps differ from those the MACs will prepare down the line. And it won't just be sequestration amounts that cause the difference. "The bigger concern I have in liabilities growing when the MACs do their calculation is the difference in beneficiary counts (reducing because of additional proration for continued services) and payments from the PS&Rs run now, versus when the MACs run their PS&Rs down the road when they do their final determination," Sharp says.

Burden: CMS has initiated the reporting of caps and returning of resulting overpayments in response to concerns that over-cap hospices are proliferating as for-profits enter the business, and to make sure the Medicare program recovers

over-cap payments.

However, hospices' self-reporting of their own caps for this purpose seems wholly unnecessary, Daucher contends. A trivial amount of system programming work on the part of CMS would have made this whole process automated, he notes.

Instead, hospices have to struggle to obtain their own information from the PS&R system □ during the middle of the IACS-to-EIDM system transition, no less □ and do their own calculations. That leaves the MACs checking thousands of hospices' math, Daucher points out.

At least Palmetto has proactively sent our hospices' necessary reports for the calculation this year. The other MACs may provide the information upon request, according to trade groups.

When Will The Other Shoe Drop?

Just how long hospices will have until the MACs reconcile their final caps and potential overpayments with the ones they report this month is unclear. But it probably won't be soon. "I look for the MACs to wait until clarification comes from CMS, which could take months," Boyd says.

"My best guess is the fall following the previous cap year," Sharp suggests. "However, I would not be surprised to see MACs get a little smarter with their analyses in waiting to do a final determination until they are seeing there is no further significant proration of beneficiaries (most patients are deceased) for a particular agency."

And it might be even longer, if hospices have their way. Daucher is readying a class action lawsuit over the inclusion of sequestration funds in the cap calculation, he reveals to **Eli**. He led a similar group appeal suit over CMS's streamlined cap calculation methodology, which won suspension and set aside more than \$50 million in cap repayment demands for more than 100 hospices.