

## MDS Alert

### Reimbursement: SNFs: Enjoy Some Wiggle-Room In Therapy RUG Classifications

**Also, you're getting a 2-percent payment-rate boost for FY 2015.**

Thanks to a final rule from the **Centers for Medicare & Medicaid Services** (CMS), skilled nursing facilities (SNFs) are getting a healthy payment boost next fiscal year—and you'll like the changes to RUG classification, too.

On Aug. 5, CMS published the final rule on the SNF payment rates under the prospective payment system (PPS) for fiscal year (FY) 2015. In addition to the payment-rate update, the final rule covers several other areas, including the Change of Therapy (COT) assessment policy update, the wage index update, and civil money penalties (CMPs).

#### Look Forward to a Bigger Payment Update than Last Year

Aggregate payments to SNFs in FY 2015 will increase by 2 percent, or \$750 million, from payments in FY 2014. This is a higher update factor than the 1.3 percent increase finalized last year. CMS attributes this estimated payment boost to the market basket increase for inflation.

The payment rates in the rule reflect the use of the RUG-IV case-mix classification system from Oct. 1, 2014 through Sept. 30, 2015, noted **Evvie Munley**, senior health policy analyst for Washington, D.C.-based **Leading Age**, in an Aug. 12 analysis.

The exact payment increase will depend on the SNF's geographic location. CMS estimates that providers in the rural Pacific region will experience the largest increase in payments of about 4.5 percent, Munley said. Providers in the urban East South Central region would experience the smallest increase of 1 percent.

#### How Final Rule Loosens RUG Classification

CMS also made some key changes to the COT Other Medicare Required Assessment (OMRA) rules. The changes have come about because "some providers have raised concerns regarding a technical aspect of the rules governing when the COT OMRA may be completed, which generally limits the use of the COT OMRA to instances where the resident is already classified into a therapy RUG," CMS explains in a recent fact sheet on the final rule.

**Problem:** "There are cases when the patient does not meet the qualifications for a therapy RUG-IV classification due to distinct days of therapy (less than five distinct days) or other qualifiers," noted Kris Mastrangelo, president and CEO of Harmony Healthcare International Inc., in a recent company blog posting. In these cases, the facility must wait until the next scheduled assessment to capture the therapy services.

"Providers are unable to capture the increased therapy services provided to the patient to ensure accurate payment for the services provided, which was the actual purpose of the COT OMRA,"

**Good news:** CMS has revised the current COT OMRA policy to "permit providers to use the COT OMRA to reclassify a resident into a therapy RUG from a non-therapy RUG, but only in certain limited circumstances," according to the fact sheet.

What this means: If the resident has been receiving therapy but does not qualify into a rehab category, and there is no discontinuation of therapy services, and the resident receives enough therapy or is no longer case-mix maximized into a clinical RUG category when the COT observation is complete, you may use a COT OMRA to classify the resident into a Rehab RUG.

**Another caveat:** Although you may use a COT OMRA to reclassify a resident into a therapy RUG in these very limited circumstances, you cannot use the COT OMRA to initially classify a resident into a therapy RUG, Munley added.

One aspect of RUG-IV groups that won't change is that CMS will continue to designate the upper 52 RUG-IV groups as automatically meeting the SNF level of care definition, Munley said. This includes all groups encompassed by the following RUG-IV categories:

- Rehabilitation plus Extensive Services;
- Ultra High Rehabilitation;
- Very High Rehabilitation;
- High Rehabilitation;
- Medium Rehabilitation;
- Low Rehabilitation;
- Extensive Services;
- Special Care High;
- Special Care Low; and
- Clinically Complex.

**Note:** Under the final 2015 PPS rule, this "automotive" SNF level of care definition applies only to the five-day Medicare required assessment.

#### **Get Ready for More Therapy RUG Changes in the Future**

This change to the COT OMRA is likely just a first step in a future overhaul of the therapy billing process, and CMS still seems skeptical of SNFs that may be overstating their therapy services. Since October 2010, the percent of residents classified into one of the Ultra High Rehab groups "has not only increased, but done so rather steadily," CMS states.

CMS also points out that for several RUG groups, the amount of therapy SNFs reported on the MDS "is just enough to surpass the relevant therapy minute threshold for a given therapy RUG category," Munley reported.

So to get to the bottom of the therapy RUG conundrum, CMS has contracted with **Acumen LLC** and the **Brookings Institution** to identify possible alternatives to the existing methodology used to pay for therapy services under the SNF PPS, Munley said. The contractors completed Phase 1 of the research project in September 2013 and are currently working on Phase 2.

#### **Heads Up: CMS Cracks Down on States' Doling Out of CMPs**

The final rule also clarifies the use of CMPs that CMS imposes against nursing facilities.

"We clarify that states may use federal CMP funds only after obtaining prior approval from CMS, and may not use these funds if CMS has disapproved their intended use, or use these funds for purposes other than to support activities that benefit residents as specified in the statute," the fact sheet explains. "CMS also requires that states provide more public transparency on the projects that have been funded by CMP funds."

**Link:** To view the entire final rule, go to [www.federalregister.gov/articles/2014/08/05/2014-18335/medicare-program-prospective-payment-system-and-consolidated-billing-for-skilled-nursing-facilities](http://www.federalregister.gov/articles/2014/08/05/2014-18335/medicare-program-prospective-payment-system-and-consolidated-billing-for-skilled-nursing-facilities).