Missouri Alliance for **HOME CARE**
2420 Hyde Park, Suite A, Jefferson City, MO 65109-4731 ▪ (573) 634-7772 ▪ (573) 634-4374 Fax

Statement of NAHC President William A. Dombi Regarding the Medicare Home Health Rule Issued 10-31-19

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CMS late today issued the Final Rule for the 2020 payment model, PDGM, including rates of payment that would start January 1, 2020. The new payment model had been finalized in its design in the 2019 rulemaking cycle. The Final Rule offers some minor tweaks in the payment model and sets out 2020 payment rates. The rule also includes unrelated adjustments in other rules affecting home health, including the 2021 home infusion therapy benefit, quality measures, and the Home Health Value Based Purchasing Demonstration program.

NAHC is greatly heartened by CMS's modification of the 2020 payment rates to reflect a much more realistic view that any behavior changes in coding or service utilization would not occur instantaneously and in full starting January 1, 2020. In reducing the 2020 adjustment from 8.39% to 4.36%, CMS has given the home health community a chance to safely transition to the dramatically new payment model. NAHC extends its thanks and appreciation the CMS for its thoughtful consideration of the community's comments in the rulemaking process. We will be working with CMS closely to assess actual behavior changes throughout 2020 and to help develop the standards for determining whether future adjustments may be justified.

The Bipartisan Budget Act of 2018 requires that the home health payment model reform be budget neutral. While it permits behavioral adjustment to payment rates, NAHC believes that assumption-based rate calculation should not occur because of the high risks of error and the creation of an incentive to change behavior solely to maintain Medicare revenues. Instead, NAHC supports adjustments only after actual behavioral changes have occurred. The modifications made by CMS in the behavior adjustment are still based on assumptions, but the revised assumptions are a definite improvement over the proposed ones.

NAHC supports sensible payment reform. While the PDGM payment model reforms include sensible changes, the behavioral adjustment remains a concern, albeit to a reduced level. There is bipartisan, bicameral legislation pending, S 433 and HR 2573, that can help resolve these concerns fully. A NAHC "thank you" goes out to the sponsors of these bills as they also weighed in with CMS to secure the important and crucial change in the behavior adjustment in the rulemaking process.

Summary - Final Rule Explained

2020 Payment Rates

1. The 2020 payment rates increase by 1.5% consistent with the Bipartisan Budget Act of 2018. There is no additional Productivity Adjustment. With the initiation of the new payment model, PDGM, the 1.5% increase shows directly only in the LUPA per visit rates. Otherwise, it is reflected in the new 30-day payment unit rate in contrast to the 60-day episode rate in 2019. This is no change from the proposed rule.

2. Since the 2020 payment model applies to care episodes that begin January 1, 2020 and later, it is necessary that CMS update 2019 payment rates for episodes that begin before January 1 and end after that date. That is because the 2019 payment model uses an "end date" approach to payment. CMS updates the 2019 episodic rates from $3154.27 to $3,220.79. The latest the 60-day episodic payment will cover is an episode ending February 28, 2020 for an episode that began prior to January 1.

3. The per visit rates for LUPA claims are increased by 1.5% over 2019 rates plus a 1.0066 adjustment to account for wage index budget neutrality.

4. The 2020 rural add-on amount depends on whether the HHA is in a Low Population Density county or a high utilization county as had been the rural add-on design that started in 2019. In 2020, the add-on for frontier counties will decrease from 4% to 3%. The add-on for counties classified as "high utilization" drop from 1.5% to 0.5%; and the remaining counties will drop from 3% to 2%. A phase out will continue in later years. This is consistent with the proposed rule.

5. Outlier eligibility will be changed with the Fixed Dollar Loss ratio changing from 0.51% to 0.6%.

6. Low Utilization Payment Adjustment (LUPA) moves to the new PDGM standard that ranges from 2-6 visits over 30 days, dependent upon the specific case mix category for the individual patient. It is noted that the "thresholds" reflect the point when a full 30-day unit payment is made.

7. CMS will phase out RAP payments over 2020 with elimination of RAPs in 2021. In 2020, CMS would reduce the RAP payments from 60/50% to 20% for existing HHAs. New HHAs would get no RAP payment. CMS claims that RAPs create fraud risks.

8. RAPS must be submitted by all HHAs through 2021. A new Notice of Admission requirement would begin in 2022, requiring electronic reporting of home health admissions within 5 days. A penalty for late RAPs and NOAs would be imposed based on the number of days late in the 30-day period. The penalty may be waived in exceptional circumstances such as fires and floods.

2020 Payment Model (FINAL)

1. CMS essentially maintains the PDGM that was finalized as a payment model reform in 2019. The Bipartisan Budget Act of 2018 requires that the reformed model start in 2020. The PDGM Final Rule includes:

- 30-day payment unit
- Therapy thresholds gone
- Case mix adjustment model with 432 categories using measures such as "early" or "late: time period; institutional discharge or community admission; 3 functional levels; comorbidity adjustment. The final model maintains the 6 clinical groupings and 7 subgroups within the MMTA clinical group to improve payment accuracy.
- CMS maintains an assumption-based behavioral adjustment to base rates to account for diagnosis coding and visit volume changes claiming that it has no choice under the law. The 2019 proposed rule included a -6.42% adjustment. The 2020 Final Rule continues the adjustment framework in assuming that HHAs will modify behavior in terms of; 1.) Diagnosis coding; 2.) Comorbidity reporting; and 3.) Incidence of LUPAs. In the 2020 Final Rule, CMS starts with an assumed behavior change of 8.39%. This is an increase from the proposed 8.01%. However, CMS agreed with the many comments submitted by the home health community that all of the assumed behavior changes could not and would not occur in full in 2020. As a result, **CMS reduced the adjustment to 4.36%.**
- **Budget Neutral 30-day unit base rate is set at $1864.03. This is a significant increase from the proposed rate of $1791.73.**
- Bundles payment for both services and non-routine medical supplies
- 30-day LUPA ranging from 2-6 visits depending on case mix category

2. Starts with 30-day periods beginning on or after January 1, 2020. Episodes beginning before 1/1/2020 will be paid under 60-day episodic model.

PDGM: Side-by-Side Comparison-Proposed vs. Final Rule

SUBJECT AREA	PROPOSED RULE	FINAL RULE	COMMENT
Start Date	1/1/20	1/1/20	Cert periods beginning 1/1/20 and later
Unit of Payment	30 day	30 day	Mandated by BiBA
Unit rate of payment	$1791.73	$1864.03	This is a significant plus for HHAs. The change is mostly due to the reduced behavior adjustment
Behavioral Adjustment	8.01%	4.36%	CMS agreed with the HH community that full changes would not occur in 2020
Therapy utilization	Does not affect payment rate	Does not affect payment rate	HHAs will need to monitor any changes in therapy utilization to ensure no deterioration in patient outcomes
Case Mix Model	432 categories based on clinical and functional measures along with “early” and “late” status and source of admission	432 categories based on clinical and functional measures along with “early” and “late” status and source of admission	Concerns continue on elements of the case mix model, particularly the use of an admission source measure to differentiate case mix weights
LUPA threshold	2-6 visits based on specific case mix classification	2-6 visits based on specific case mix classification	LUPA applies up to, not at the thresholds
RAP	20% of unit rate for 2020; new HHA not qualified for RAP; no RAP in 2021	20% of unit rate for 2020; new HHA not qualified for RAP; no RAP in 2021	HHAs need to take steps immediately to avoid cash flow problems
Notice of Admission	Starting 2021; penalty for late submission (after 5 days)	RAP will be used to serve NOA purposes through 2012 for all HHAs. Penalties for late submissions. NOA starts in 2022	CMS needs some sort of admission notice to provide information to other providers through the Common Working File

Note that legislation is pending that would roll back the behavior adjustment (S433/HR2573). If the legislation is passed prior to 1/1/20, the 30-day payment unit rate would increase by a level equivalent to the adjustment set out in the rule.

The legislation does not eliminate behavior adjustments permanently. Instead, Medicare will still be permitted to make such adjustments but only after actual behavior changes that affect the budget neutrality of PDGM.

OTHER RULE CHANGES

- CMS finalized its proposal to permit therapy assistants to provide maintenance therapy.
- CMS finalized its proposal to reduce the plan of care (POC) requirements that are considered to be Conditions of Payment, leaving other POC standards to be enforced as Conditions of Participation.
- CMS finalized public reporting of the total point score (TPS) and the TPS Percentile Ranking from the PY 5 (CY 2020) Annual TPS and Payment Adjustment Report for each HHA in the nine Model states that qualified for a payment adjustment for CY 2020.
- CMS Finalizes two proposed Transfer of Information quality measures and numerous standardized patient assessment data elements (SPADEs). Agencies will begin collecting the items in 2021 for the 2022 home health quality reporting program (HHQRP). CMS commented that they plan to release a draft of the revised OASIS to implement the new assessment items by early 2020.
- CMS finalized removing the Improvement in Pain Interfering With Activity measure from the home health quality reporting program (HHQRP) for 2022, cease collecting in 2021. However, CMS did not finalize its proposal to remove of the pain item from the Home Health Consumer Assessment of Healthcare Providers and Systems (HHCAHPS) survey.
- The rule reiterates the structure for the new home infusion therapy benefit created through the 21st Century Cures legislation that takes effect in 2021. The structure of the new benefit was finalized in the 2019 HHPPS rate update rule. The rule clarifies the interrelationship between the home health benefit and the transitional infusion therapy benefit in 2020 and the home infusion therapy benefit beginning in 2021 when infusion therapy can no longer be covered through the home health benefit. CMS finalized the proposal to maintain the three payment categories currently being utilized under the temporary transitional payments for home infusion therapy and finalized each category payment amount for the new Part B home infusion therapy for 2020. CMS tabled its proposal for physicians to notify beneficiaries of infusion therapy options available prior to furnishing home infusion therapy services. CMS is seeking comment in response to stakeholder concerns regarding the limitations of the DME local coverage decision (LCDs) for external infusion pumps that preclude coverage to certain infused drugs. Comments are due December 30, 2019.