Home Health Pay +0.7% Final 2023

Rates Improve & PDGM Phase-In Helps Industry

Today, CMS released the final CY 2023 Home Health prospective payment system (HH PPS), which updates Medicare policies and rates for home health agencies (HHAs). See final rule here. The net impact of the rule is that Medicare payments to HHAs in CY 2023 will be approximately $125 M, increasing by 0.7%. The rule had a -$810 M proposed impact, decreasing by 4.2%.

- **Medicare payments will be +0.7% in CY 2023, in comparison to CY 2022**. HHAs will enjoy a $125 M increase, an aggregate of Increase reflects:
  - 4.0% home health payment update percentage ($725 M increase)
  - 3.5% decrease that reflects the effects of the prospective permanent behavioral -3.925% ($635 million decrease) that is being phased-in
  - 0.2% increase that reflects the effects of an update to the fixed-dollar loss ratio (FDL) used in determining outlier payments ($35 million increase).
  - overall impact of the -3.925% permanent behavioral assumption adjustment being -3.5%

- **CMS will phase in the negative adjustment, good news for home health agencies.** CMS finalized a -7.85% permanent payment adjustment, -3.925% adjustment for CY 2023. There is no temporary payment adjustment in CY 2023. The proposed rule had a -7.69% permanent adjustment to the 30-day payment rate in 2023. To recoup retrospective overpayments in CYs 2020 and 2021, CMS would need to implement a temporary adjustment of approximately $2.1 B.

- **CMS allows a -3.925% (half of the -7.85%) final reduction to be implemented in 2023**. The overall impact of the -3.925% permanent behavioral assumption adjustment is -3.5%, as the permanent adjustment is only made to the 30-day payment rate and not the Low Utilization Payment Adjustment (LUPAs) per visit payment rates. Future rulemaking will need to address differences in behavior changes on estimated aggregate expenditures.

- **A $2.1 B overpayment in 2020 and 2021 will still be recouped, which isn't great news for HHAs.** CMS proposed withholding any adjustment at this time to reconcile the alleged overpayment. CMS continues to hold on the collection of the overpayment in the final rule. Note that any temporary adjustment for CY2022 has yet to be calculated but can be expected to be in excess of $1 B under the CMS methodology.

- **CMS also finalizes a permanent, budget neutral 5% cap on negative wage index changes.** The cap is in effect regardless of the underlying reason for the decrease, allowing HHAs to smooth year-to-year changes in the pre-floor/pre-reclassified hospital wage index. The rule aims to align with the FY 2023 inpatient prospective payment system final rule and increase predictability in home health payments.

- **CMS recalibrates PDGM case-mix weights and LUPA thresholds.** 432 payment groups under the PDGM have their own associated case-mix weight and LUPA threshold. Recalibration is done with CY 2021 data (most complete utilization data available at this time), in order to more accurately pay for the types of patients HHAs are serving.

- **The rule expands the Home Health Value-Based Purchasing (HHVBP) Model.** The HHVBP Model expansion to include all certified HHAs in the 50 States, territories, and District of Columbia beginning January 1, 2022, was finalized. CY 2022 is designated as a pre-implementation year for

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HHAs to prepare and learn about the expanded HHVBP model without any risk to payments. CMS will provide resources and training. HHA baseline year for benchmarks will be changed from CY 2019 to CY 2022 for existing HHAs with a Medicare certification date prior to January 1, 2019, and from 2021 to 2022 for HHAs with a Medicare certification date prior to January 1, 2022 starting in CY 2023.

- **CMS plans to begin collecting data on use of telecommunications technology on a voluntary basis beginning January 1, 2023.** Mandatory data collection begins on July 1, 2023. The goal of analyzing home health claims data shows characteristics of the beneficiaries utilizing services furnished remotely, giving a better understanding of SDOH that affect users, including what barriers may potentially exist for certain subsets. Data is not collected during 30-day period of care on the HHA claim. However, services furnished via telecommunications must be included in the patient's care plan.

- **CMS finalized three G-codes as proposed** for identifying when HH services are furnished using (1) synchronous telemedicine (2) synchronous telemedicine rendered via telephone or audio-only telecom and (3) collection of physiologic data digitally stored/transmitted by the patient to the HHA i.e., remote patient monitoring. CMS is interested in comments on additional G-codes that may be helpful to track the use of telecommunications therapy in care provision.

- **Home infusion therapy service payment system under Medicare's final payment rate update is +8.7%.** This requires a single-payer payment made to home infusion therapy suppliers. The single payment amounts are also adjusted in a budget-neutral manner using standardization factors for geographic area wage differences using the geographic adjustment factors (GAF). The CY 2023 geographic adjustment factors (GAF) standardization factor that will be used in updating the final HIT payment amounts for CY 2023 is not available for this final rule. Once finalized, CMS will post the standardization factor, the final GAFs, national home infusion therapy payment rates, and locality-adjusted home infusion therapy payment rates.

- **All-Payer Policy for the Home Health Quality Reporting Program finalized.** CMS is ending the temporary suspension of OASIS data collection on non-Medicare/non-Medicaid HHA patients. HHAs will be required to submit all-payer OASIS data for purposes of the HH Quality Reporting Program (QRP) beginning with the CY 2027 program year, with 50% of data required for that program year. The phase-in period for January 1, 2025, through June 30, 2025, in which failure to submit the data will not result in a penalty.

- **NEXT STEPS:** New rates take place Jan 1, 2023. Industry seeks legislative assistance, but we do not foresee implementation until 2023 at the soonest, with a tight lame duck agenda that only contains must-pass issues i.e., budget, debt ceiling, sequestration, hospital extenders and a smattering of other items that save dollars such as ESRD/dialysis update as a result of the Supreme Court ruling in mid-2022. See background on PDGM, as well as other myriad policies contained in the 2023 final rule.

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Background

- **The Proposed Rule was met with backlash from the industry this summer.** See here. It was released in June 2022 and proposed a 4.2% decrease to provider payments in 2023. CMS believes that HHAs were overpaid by $2B in 2020 and 2021 due to provider behavior changes in coding. Final rules follow intense advocacy efforts by the home health industry.

- **Home health legislation may be on the horizon.** (1) On the Medicare side, the bipartisan *Choose Home Care Act* of 2021 still has a decent chance of gaining traction at year-end. This bill expects HHAs to receive a combination of the home health benefit payment and a 4-level, 30-day fixed episodic payment where providers share financial risk with Medicare. This bill has not seen much movement, however, due to the list of other things Congress is dealing with now. However, the bipartisan support leaves us thinking there may be hope. **(2)** The *Better care, Better Jobs Act*, has not seen much movement and is a long shot because of its non-partisan nature. This bill seeks $100M for states to expand access to Medicaid home care services and strengthens the home care workforce. It also implements a 10% increase in the federal Medicaid Match for delivering home care-based services.

- **States have an additional year to use ARP funds for home and community-based services.** The HHS, through the CMS, announced that states would have an additional year to use funding from the American Rescue Plan to both enhance and expand home and community-based services. This ARP offered a 10%-point increase to HCBS funding. Using the funds from the ARP have proven to be difficult for the states, so allowing extended time will positively affect them. These funds could be used to strengthen the state HCBS programs

- **NEXT STEPS:** The phase-in approach of the permanent adjustment buys HHAs more time. We expect that a Republican Congress would have more sympathy for HHAs, resulting in more sympathetic rates for future CYs. We expect continued pushback against cuts, in light of the home health industry being hit by the pandemic. New rates start Jan 1, 2023. There has been no movement on either the *Choose Home Care Act* or the *Better Care, Better Jobs Act*, which both have the potential to impact home health care. The *IMPACT Act* requires the CMS to release a new post-acute payment system in 2022 that also will affect Home Health, which we are watching out for.

BACKGROUND ON PDGM

- **CMS reduces pay rates to ensure the new PDGM model transition is budget neutral to 'expected' 2019 spend.** On January 1, 2020, CMS implemented the new case-mix classification home health Patient-Driven Groupings Model (PDGM) and a 30-day unit of payment, as required by the *Bipartisan Budget Act of 2018*. The PDGM aligns payments with patient care needs, especially for complex beneficiaries that require more skilled nursing care rather than therapy. The law required CMS to make assumptions about behavior changes that could occur because of the implementation of the 30-day unit of payment and the PDGM. In the 2019 HH final rule, CMS finalized 3 behavioral assumptions (clinical group coding, comorbidity coding, and LUPA threshold). The law also requires CMS to determine the impact of differences between *assumed* behavior changes and *actual* changes on estimated expenditures, beginning with 2020 and ending with 2026, and to make temporary & permanent increases or decreases, as needed.

- **Bicameral and Bipartisan *Preserving Access to Home Health Act* was introduced over the summer.** See legislation here. The Senate bill was introduced by Sens. Debbie Stabenow (D-MI)

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and Susan Collins (R-ME), identical to the one introduced by Reps. Terri Sewell (D-AL) and Vern Buchanan (R-FL) in the House. The bills were a crucial component of the home health industry's efforts against CMS's proposed rate cut for 2023, aiming to prevent CMS from reducing payments until 2026. Th

- **MedPAC released numbers in Dec. 2021 about Home Health and its future**. Most of the attitudes expressed did not favor Home Health in terms of payments. They urged Congress to reduce Medicare's base payment rate for Home Health Agencies by -5% for 2023, and non-partisan commissioners largely agreed with this. This is following the 2022 rules for Home Health which showed an increase of 3.2% (compared to the 1.7% proposed) see the final report here
    - **MedPAC predicted 2022 margins to be +17%, which is a decrease from +20.2% in 2022.** This could have been due to COVID-19 or other factors such as the patient-driven grouping model (PDGM). MedPAC believes these double-digit margins are still a bit too high which is why they are urging a 5% decrease for 2023.

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