



American Academy of Physical Medicine and Rehabilitation

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August 31, 2015

Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1633-P
P.O. Box 8013, Baltimore, MD 21244-1850

Re: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Short Inpatient Hospital Stays; Transition for Certain Medicare-Dependent, Small Rural Hospitals Under the Hospital Inpatient Prospective Payment System; Proposed Rule

Dear Mr. Slavitt:

On behalf of the more than 8,000 physiatrists of the American Academy of Physical Medicine and Rehabilitation (AAMP&R), we appreciate the opportunity to submit comments to the proposed rule: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Short Inpatient Hospital Stays; Transition for Certain Medicare-Dependent, Small Rural Hospitals Under the Hospital Inpatient Prospective Payment System; Proposed Rule that was published in the Federal Register on July 8, 2014. Physiatrists are specialists in the field of physical medicine and rehabilitation (physiatry) and treat adults and children with acute and chronic pain, persons who have experienced catastrophic events resulting in paraplegia, quadriplegia, traumatic brain injury, spinal cord injury, limb amputations, rheumatologic conditions, musculoskeletal injuries, and persons with neurologic disorders or any other disease process that results in impairment and/or disability.

Short Inpatient Hospital Stays

In the FY 2014 IPPS/LTCH PPS final rule (78 FR 50943 through 50954), CMS addressed its longstanding policy on how Medicare contractors review inpatient hospital and critical access hospital admissions for payment purposes. Specifically, the CMS policy that stated “when a beneficiary receives a minor surgical procedure or other treatment in the hospital that is expected to keep him or her in the hospital for only a few hours (less than 24 hours), the services generally should be billed as outpatient hospital services, regardless of the hour the beneficiary comes to the hospital, whether he or she uses a bed, and whether he or she remains in the hospital past





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midnight.” CMS went on to say “billing instruction does not override the clinical judgment of the physician to keep the beneficiary at the hospital, to order specific services, or to determine appropriate levels of nursing care or physical locations within the hospital. Rather, this instruction provided a benchmark to ensure that all beneficiaries received consistent application of their Medicare Part A benefit to whatever clinical services were medically necessary.”

The AAPM&R agrees with CMS that billing instruction should never override the clinical judgment of the physician to keep the beneficiary at the hospital, to order specific services, or to determine appropriate levels of nursing care or physical locations within the hospital. Because physiatrists treat patients across post-acute care settings, including inpatient rehabilitation (IRFs) facilities, skilled nursing facilities (SNFs), and long term acute care hospitals (LTACHs), we believe that our members are the appropriate specialty to determine the medical necessity of these services for beneficiaries. With appropriate medical rehabilitation services and programs across the care continuum, most patients can regain significant function, and many can return to live fulfilling and productive lives in their homes and communities.

As such, the Academy believes that any rule that denies patients access to medically necessary care is inappropriate. Thus, we urge CMS to reconsider the required three consecutive day inpatient stay requirement for admission to the SNF and Medicare coverage of the beneficiary’s medically necessary SNF stay. The three-day rule has been part of the Medicare statute since its enactment in 1965, and was originally intended to ensure that Medicare coverage was available for SNF care. Since 1965, not only has the average length of stay declined, but more patients are being kept for longer periods in observation status. AAPM&R believes that the three-day rule is an arbitrary rule that prevents Medicare beneficiaries from receiving coverage for medically necessary services that will allow them to return to their homes and communities. **We request that CMS present data that shows that the three-day rule appropriately places beneficiaries that require medically necessary services in the SNF over those that do not meet the three-day rule. With that said, AAPM&R urges CMS to remove the three-day rule requirement and allow the physician’s medical evaluation to appropriately place beneficiaries whose conditions are such that SNF care is medically necessary.** Continuing to require that the three-day rule be met denies access to medically necessary services to beneficiaries. It also places undue financial burden on beneficiaries who believe they have met the three-day requirement, but were in observation status for multiple days and require SNF care to regain significant function, and return to their homes and communities.

We appreciate the opportunity to comment on this proposed rule. The AAPM&R looks forward to continuing dialogue with CMS on these important issues. If you have any questions about our comments, please contact Jenny Jackson, Manager of Finance and Reimbursement in the AAPM&R Division of Health Policy and Practice Services. She may be reached at jjackson@aapmr.org or at (847)737-6024.



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Sincerely,

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Reimbursement and Policy Review Committee

American Academy of Physical Medicine and Rehabilitation

