MEDPAC Medicare Payment Advisory Commission

601 New Jersey Avenue, N.W. • Suite 9000
Washington, DC 20001
202-220-3700 • Fax: 202-220-3759
www.medpac.gov

Glenn M. Hackbarth, J.D., Chairman
Robert D. Reischauer, Ph.D., Vice Chairman
Mark E. Miller, Ph.D., Executive Director

January 27, 2004

Dennis Smith, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention CMS-1213-P
Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington DC 20201

Re: File code CMS-1213-P

Dear Mr. Smith:

The Medicare Payment Advisory Commission (MedPAC) welcomes the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) proposed rule entitled *Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilities; Proposed Rule*, 68 Fed. Reg. 66920 (November 28, 2003). We appreciate your staff's careful design of this prospective payment system and recognize that designing such a system in a short amount of time is particularly difficult in the context of competing demands on the agency.

The Commission supports CMS's objectives to ensure that inpatient psychiatric facilities (IPFs) are paid accurately to serve Medicare beneficiaries who need acute inpatient psychiatric care. We also support implementation of the prospective payment system (PPS) described in the rule. We recognize that many design decisions were based on the best data available; nevertheless, because the data are not the most recent and may contain flaws, the Commission recommends that CMS revisit the design of the PPS for IPFs after its implementation when the quality of the data has improved. Such review should address issues we discussed in our January 2003 report to the Congress about the IPF PPS. Those issues not addressed fell into two broad categories:

- Determination of appropriate payments for patients treated in different types of IPFs:
  - *CMS should examine more fully the differences between hospital-based and freestanding psychiatric facilities.*
  - *CMS should conduct more research on government-owned psychiatric hospitals' costs.*
- System design and statistical methods:

- *Per diem payments should decrease continually .*
- *CMS should explore alternative models of per diem costs.*

CMS did address our issues about implementation and administration:

- *The transition from the current payment system to PPS should be gradual and budget neutral, although facilities should have the option to move to 100 percent PPS reimbursement before the transition is complete.* CMS instituted a three-year transition for the PPS, and payments will be budget neutral with what would have been paid under the previous payment system. CMS did not allow IPFs to select an option to move to the 100 percent PPS rates before the transition was complete because the number of facilities that CMS estimated would have chosen this option would have reduced the base rate too much.
- *Determine who has the authority to annually update payments.* CMS has assumed that it has the authority to update payments annually.

We have three concerns about the design of the proposed PPS. First, we are concerned about financial incentives for IPFs to discharge beneficiaries prematurely. Second, we are concerned about how differences in costs among hospital-based and freestanding IPFs may affect access to inpatient psychiatric care for beneficiaries with medical conditions. Finally, we believe that the general vulnerability of the beneficiaries needing IPF care dictates a need for CMS to closely monitor the effects of the PPS on beneficiaries' access.

Continuously decreasing per diem rates versus rate blocks

A continuously decreasing system of per diem payments may be more consistent with the intent of a per diem payment system than the rate blocks in the proposed system. Rate blocks create financial incentives for providers to keep patients at length of stay intervals just until rates decline in the next block. This can lead to premature discharges or longer stays than needed. We believe that a continuous system best achieves Congressional intent when requiring a per diem payment system.

Separate from the design of the PPS, CMS is also changing its requirements for when physicians must recertify that patients continue to need IPF care. CMS proposes to change the timing when physicians must recertify patients from day 18 to day 10. While we understand that this change was made to reflect shorter lengths of stay, we are concerned that IPFs may discharge patients to avoid the recertification requirement. If CMS had used rates that decreased continuously, changing the time for recertification would not reinforce the financial incentive to discharge a patient prematurely. CMS should monitor whether changing the timing of recertification influences lengths of stay.

Examining differences in IPFs

In our January 2003 report, we suggested that CMS should examine more fully the differences between hospital-based and freestanding psychiatric facilities. Our primary concern is that patients with medical conditions in addition to psychiatric diagnoses have

access to care in the most appropriate setting. Historically, hospital-based IPFs have most often treated beneficiaries with medical comorbidities. Although the proposed PPS adjusts payments for some select medical comorbidities, we ask CMS to evaluate whether the list of comorbidities should expand.

CMS will need to monitor the PPS very closely

Beneficiaries who need inpatient psychiatric care are among the most vulnerable individuals covered by Medicare. Anecdotal reports of vulnerability in the provider infrastructure raise concerns about beneficiaries' access. Vulnerable beneficiaries being treated in potentially vulnerable facilities means that the new payment system needs to be monitored even more closely than new systems generally are. MedPAC also will closely monitor beneficiaries access to IPFs by analyzing claims and talking with provider and beneficiary representatives to determine if there are systematic indicators of access problems.

As usual, we look forward to working with CMS on these issues.

Sincerely,

Glenn M. Hackbarth, J.D.
Chair