MEDPAC | Medicare Payment Advisory Commission

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May 27, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: CMS–1773–P

Dear Ms. Brooks-LaSure:

The Medicare Payment Advisory Commission (MedPAC) welcomes the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS's) proposed rule entitled "Medicare Program; FY 2023 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements" in the *Federal Register*, vol. 87 no. 64, p. 19442 (April 4, 2022). We appreciate CMS's ongoing efforts to administer and improve the payment system for hospice services, particularly given the many competing demands on the agency's staff.

Our comments focus on two issues: the update for fiscal year (FY) 2023 and the proposal for a cap on wage index decreases.

Proposed update to the FY 2023 payment rates and aggregate cap

CMS has proposed an update of 2.7 percent to the FY 2023 hospice payment rates and hospice aggregate cap amount, as required by statute.

Comment

We recognize that CMS is required by statute to propose an increase to the FY 2023 base rates and aggregate cap of 2.7 percent. However, in our March 2022 report to the Congress, the Commission recommended no update to the FY 2022 payment rates for FY 2023 (i.e., hold the payment rates for FY 2023 at the FY 2022 levels) and the hospice aggregate cap be wage adjusted and reduced by 20 percent.[1] In that report, the Commission found that indicators of access to care were positive, and the aggregate Medicare margin was strong. The number of hospice providers, number of beneficiaries enrolled in hospice, days of hospice care, and average length of stay all increased in 2020. Aggregate Medicare marginal profit was 17 percent in 2019. Given that the number of

[1] Medicare Payment Advisory Commission. 2022. *Report to the Congress: Medicare payment policy*. Washington, DC: MedPAC.

for-profit providers increased by 7 percent, access to capital appears strong. The 2019 Medicare aggregate margin was 13.4 percent, about 1 percentage point higher than in 2018. The projected 2022 Medicare aggregate margin is about 13 percent.

Given the positive payment adequacy indicators for the hospice sector, the Commission concluded that the aggregate level of payments could be reduced and still be sufficient to cover hospice providers' costs and preserve beneficiaries' access to care. Reducing the hospice aggregate cap by 20 percent would focus payment reductions on providers with particularly high margins. Wage adjusting the hospice aggregate cap would make it more equitable across providers. Overall, the Commission's recommendation would bring aggregate payments closer to costs, lead to savings for taxpayers, and be consistent with the Commission's principle that it is incumbent on Medicare to maintain financial pressure on providers to constrain costs.

Proposed cap on wage index decreases

For FY 2023 and subsequent years, CMS proposes applying a 5 percent cap on decreases to the hospice wage index such that the wage index applied to a geographic area is not less than 95 percent of the wage index applied to that geographic area in the prior year. CMS contends that applying a 5 percent cap will help mitigate instability in hospice providers' payments from year to year. CMS proposes that the 5 percent cap on negative wage index changes would be implemented in a budget-neutral manner through the use of wage index standardization factors.

Comment

The Commission supports the proposed 5 percent cap on wage index decreases. However, we contend that the cap should apply not just to wage index decreases but to increases as well, such that no geographic area would have its wage index value increase or decrease by more than 5 percent in any given year. Consistent with CMS's proposed approach, the implementation of the revised relative wage index values (where changes are limited to plus or minus 5 percent) should be done in a budget-neutral manner.

The Commission values the ongoing cooperation and collaboration between CMS and our staff on technical policy issues. We look forward to continuing this productive relationship. If you have any questions, or require clarification of our comments, please feel free to contact James E. Mathews, the Commission's Executive Director, at 202-220-3700.

Sincerely,

Michael E. Chernew, Ph.D.
Chair

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