

## HHS Releases List of 25 Unimplemented Recommendations to Save Money and Improve Quality in Medicare and Medicaid

On March 16, the Office of Inspector General of the U.S. Department of Health and Human Services released the Compendium of Unimplemented Recommendations, an 83-page document that identifies 25 priorities for saving money and improving quality in Medicare and Medicaid. The list is derived from recommendations from studies that have not yet been enacted. By releasing this proposal during budget season, OIG appears to be increasing pressure on Congress and other agencies to take action on one or more of these proposals.

The 25 Unimplemented Recommendations run the gamut of affected stakeholders, addressing coding practices of skilled nursing facilities, face-to-face documentation requirements for home health agencies, streamlining Medicare's appeals process, improving the performance of Medicare's contract auditors, allowing Medicare Part D plans to offer restrictive pharmacy networks, and expanding oversight of dietary supplements. Not surprisingly, many of these proposals would impact hospitals by lowering reimbursement rates.

**Discharge to Hospice.** One proposal, issued in May 2013, states that "CMS should change regulations or pursue a legislative change, if necessary, to establish a hospital transfer payment policy for early discharges to hospice care." Currently, Medicare has two transfer payment policies. One policy adjusts payments for discharges from one hospital to another, and the second adjusts payments for discharges from hospitals to post-acute care facilities for continued treatment. Medicare pays hospitals a per diem rate for early discharges to either of these two facilities. However, Medicaid does not have a transfer policy for instances when a beneficiary is discharged early to hospice care. On the basis of OIG's sample results, Medicare would have saved approximately \$602.5 million during calendar years 2009 and 2010 by implementing a hospital transfer policy for each discharge to hospice, similar to the transfer payment policy it has for early discharges to other post-acute care facilities.

**Reduction of Hospital Outpatient Rates.** Another proposal, with a potentially enormous financial impact, is for legislation that would reduce hospital reimbursement for certain procedures to the amount that an ambulatory surgical center (ASC) receives for the same procedure. Currently, Medicare covers many outpatient surgical procedures commonly performed in both hospital outpatient departments and ASCs. ASCs provide surgical services in less intensive and less expensive settings to patients who do not require an overnight stay. Therefore, Medicaid ASC payment rates are usually lower than outpatient department rates. If legislation were enacted that would allow outpatient prospective payment system rates for ASC-approved procedures to be determined in a non-budget neutral manner, it is estimated that Medicare could save as much as \$15 billion for calendar years 2012 through 2017.

**Expand DRG Window.** A third proposal is that CMS should seek legislative authority to expand the Diagnoses Related Group (DRG) window to include additional days prior to an inpatient admission. The DRG window policy defines when outpatient services related to inpatient admissions are not paid for separately, but rather are included in a single, lump-sum payment. Under the current framework, related outpatient services delivered within three days of an inpatient admission in a setting owned by the admitting hospital are not paid for separately. HHS recommends that the DRG window expand to include additional days prior to inpatient admission, noting that three days is not a medical standard and that the medical community has identified benefits to providing certain preadmission services weeks and sometimes months prior to an inpatient stay. Implementing this change has an estimated annual savings of \$308 million.

The full report can be found [here](#).

If you have any questions, please do not hesitate to contact your usual Ropes & Gray contact.