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Health Care Bulletin

CMS ANNOUNCES MEDICARE PAYMENT INCREASES AND QUALITY INITIATIVES FOR SNFS AND HHAS

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Recently, the Centers for Medicare and Medicaid Services ("CMS") announced a 3.1% increase in the Medicare payment rates for skilled nursing facilities ("SNFs") and issued a proposal to increase the payment rate for home health agencies ("HHAs") by 3.1%. These payment increases will take effect starting January 1, 2007 and will result in approximately \$560 million dollars in additional payments to SNFs and \$460 million dollars in additional payments to HHAs. In both releases, CMS also discussed the institution of several quality initiatives designed to ensure that the quality of services provided is on par with the payments made.

Currently, Medicare pays SNFs and HHAs under the "Prospective Payment System" ("PPS"). Under the SNF PPS, Medicare pays a SNF a per diem rate for the costs of all services provided pursuant to a Medicare Part A stay. This per diem rate covers multiple goods and services including, for example, room and board, nursing services, pharmaceuticals, medical supplies and capital costs. The per diem rate is adjusted on a yearly basis using a SNF market basket index that measures the price changes of the goods and services provided. The rate Medicare pays is also adjusted for local labor costs and the level of needs of each individual patient. Likewise, under the HHA PPS, Medicare pays providers based upon a national standardized 60-day episode

rate that covers most HHA services provided. Similar to the SNF PPS, the rate is adjusted for local labor costs, and the rate paid is higher for patients with greater needs. The rate is updated on a yearly basis using a HHA market basket index. For calendar year 2007, the new 60-day episode rate will be \$2,334.47, up from \$2,264.28.

Along with these payment increases, CMS announced the implementation of several initiatives designed to improve quality of care and eliminate unnecessary spending. With respect to nursing homes, CMS announced that it is in the process of developing a "Nursing Home Value Based Purchasing Demonstration." Under this program, nursing homes will have the opportunity to receive additional payments based upon their performance on quality measures. CMS also intends to initiate a "Nursing Home Quality Campaign" designed to positively impact the quality of life of SNF residents and increase the efficiency of the delivery of SNF services.

While CMS's announcement regarding the SNF increase simply mentioned the creation of quality initiatives, CMS's proposed rate increase for HHAs actually makes the increase contingent on the receipt of quality data. Currently, as mandated by the Omnibus Budget Reconciliation Act of 1987, HHAs collect and report Outcome and Assessment Information Set ("OASIS")

data. Under the proposed rule, if an HHA does not submit the requisite OASIS data, CMS will reduce the amount of the HHA's increase by two percentage points. The reduced payment will total \$2,289.19 instead of \$2,337.47.

Additional Information

The Health Care Practice Group at Benesch Friedlander Coplan & Aronoff LLP strives to keep you informed of the latest developments in health care law. If you have any questions concerning this nine day hold, please contact **Harry M. Brown**, (216) 363-4606 or hbrown@bfca.com; or **Alan E. Schabes**, (216) 363-4589 or aschabes@bfca.com in Cleveland; or **Janet K. Feldkamp**, (614) 223-9328 or jfeldkamp@bfca.com; or **Frank Carsonie**, (614) 223-9361 or fcaronie@bfca.com in Columbus. Biographical information is available at www.bfca.com.