

Long Term Care & Senior Housing Hot Sheet -- Breaking Developments in Long Term Care & Senior Housing Law

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Skilled Nursing Facility Prospective Payment System Final Rule Mandates RUG Refinements

On August 4, 2005, the Centers for Medicare and Medicaid Services ("CMS") released its final rule updating the Skilled Nursing Facility ("SNF") Prospective Payment System ("PPS") for fiscal year 2006. The final rule contains a number of policy changes that could affect future reimbursement rates.

The most significant policy change implements a refinement to the current Resource Utilization Groups, Version III ("RUG-III") case-mix classification system.

The RUG refinement will be implemented January 1, 2006. CMS's stated purpose for the RUG refinement is to improve the ability of the existing RUG-III classification system to capture non-therapy ancillary ("NTA") costs.

The RUG refinement reflects two major changes. First, there are nine new RUG categories for SNF inpatients qualifying for both Rehabilitation and Extensive high-intensity medical services. The payment for this group will be higher than that for residents receiving either Rehabilitation or Extensive services alone. The number of RUG categories has increased from 44 to 53.

The second major change reflected in RUG refinement is the increase of the nursing case-mix weight to reflect an adjustment for ancillary costs. The nursing case-mix weight for all 53 RUG categories will be increased by 8.51 percent. CMS notes that because ancillary costs are not tied to any specific RUG group, their costs were not completely captured. Thus, the increase in the nursing case-mix weight across the board is meant to provide the extra funding to cover the aggregate of these ancillary expenses. CMS claims the 8.51 percent increase in the nursing case-mix weight amounts to a 4 percent annual increase in aggregate spending. Due to the January 1, 2006, implementation date, the increase associated with this refinement will only be in effect for nine months of fiscal year 2006, resulting in a 3 percent increase in aggregate spending.

In addition to the RUG refinement, the new regulations update the "market basket" index. The new payment rates include a "market basket" update increase of 3.1 percent, or \$530 million. The update is based on the change in prices of a "market basket" of goods and services included in covered skilled nursing facility stays. The price of items in the "market basket" is increased each year, and payments are adjusted accordingly.

The RUG refinement is significant because, under current law, it triggers the loss of an estimated \$1 billion in "add-on" payments previously authorized by the Medicare Balanced Budget

Refinement Act of 1999 (“BBRA”). CMS, however, estimates that for fiscal year 2006, there will be a zero net fiscal effect when the loss in add-on payments is considered against the "market basket" update and a nursing case-mix adjustment.

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