MEDPAC Medicare Payment Advisory Commission

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March 22, 2007

Leslie V. Norwalk, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Blvd.
Baltimore, MD 21244-1850

Re: File code CMS-1529-P

Dear Ms. Norwalk:

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 Long-Term Care Hospitals, RY 2008: Proposed Annual Payment Rate Updates, and Policy Changes; and Proposed Hospital Direct and Indirect Graduate Medical Education Policy Changes; Proposed rule*. We appreciate your staff's work on this prospective payment system (PPS), particularly given the competing demands on the agency.

In our comment letter on the proposed changes to the hospital inpatient PPS published in the Federal Register April 25, 2006, we discussed our concern that CMS used different methods to recalibrate the weights for the long-term care hospitals (LTCHs) and acute care hospitals. We applaud your decision to use the same methods to recalibrate weights for both settings in the future.

Currently, Medicare pays less for certain patients who are admitted to LTCH hospitals within hospitals (HWHs) from their host hospitals. Most HWHs are paid lower rates when patients admitted from their host hospital make up more than 25 percent of all patients. CMS proposes to extend this rule to freestanding LTCHs so that all LTCHs would be limited as to the number of patients they could admit from any one acute care hospital.

The Commission sees patient and facility criteria to define LTCHs as the best way to target LTCH care to patients who need it and has recommended both facility and patient criteria to define long-term hospital care. CMS contracted with the Research Triangle Institute (RTI) to assess the feasibility of adopting the Commission's recommendations. The results of the study led RTI to recommend criteria that are similar to our recommendations. Approaches other than criteria, such

as the 25 percent rule, may be administratively less complex but are more arbitrary and increase the risk for unintended consequences.

We had hoped that CMS would begin implementing criteria in this proposed rule. Two LTCH associations have proposed criteria which each contain elements of what we have recommended. We urge CMS to work with these associations to develop criteria as we have recommended.

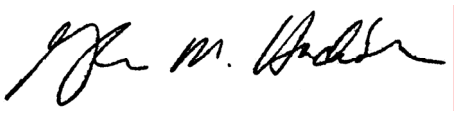
The Commission has also recommended including an adjustment for patient severity in the payment system for acute hospitals. High-severity patients are more likely to be referred to LTCHs. By increasing payment for severely ill patients, a severity adjustment may reduce the need for some referrals to LTCHs.

Finally, the Commission recommended that quality improvement organizations (QIOs) review LTCH admissions for medical necessity and monitor whether facilities comply with the criteria. CMS states in the proposed rule that the agency does not anticipate expanding QIO activities during the current scope of work. We recommend that the QIO role be expanded in the next scope of work.

MedPAC appreciates the opportunity to comment on the important policy proposals crafted by the Secretary and CMS. The Commission also values the ongoing cooperation and collaboration between CMS and MedPAC 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 Mark Miller, MedPAC's Executive Director.

Sincerely,



Glenn M. Hackbarth
Chairman

GMH/dk/cw