

Small Entity Compliance Guide

CY 2018 Home Health Prospective Payment System Rate Update and CY 2019 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; and Home Health Quality Reporting Requirements

CMS-1672-F; RIN 0938-AT01

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42 CFR Part 484

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104-121, March 29, 1996, as amended by Pub. L. 110-28, May 25, 2007) contains requirements for issuance of “small entity compliance guides.” Guides are to explain what actions affected entities must take to comply with agency rules. Such guides must be prepared when agencies issue final rules for which agencies were required to prepare a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act (RFA). The overall impact of the Calendar Year (CY) 2018 Home Health Prospective Payment System (HH PPS) final rule, as is detailed in the Regulatory Flexibility Analysis (RFA) section and discussed below, reflects an estimated decrease in payments to home health agencies. This final rule is estimated to have a significant economic impact on a substantial number of small entities. The complete text of this final rule can be found on the CMS website by clicking on the link to “CMS-1672-F” at <https://www.cms.gov/Center/Provider-Type/Home-Health-Agency-HHA-Center.html>.

As required under section 1895(b)(3)(B) of the Social Security Act (the Act), this final rule updates the HH PPS rates under the Medicare prospective payment system for home health agencies (HHAs) effective January 1, 2018. In accordance with sections 1895(b)(4)(B) and 1895(b)(4)(C) of the Act, this rule updates the case-mix weights and wage index used under the HH PPS. In addition, this final rule implements the third and final year of a 0.97 percent reduction to the national, standardized 60-day episode payment rate to account for estimated case-mix growth unrelated to increases in patient acuity (nominal case-mix growth) between CY 2012 and CY 2014. Lastly, section 421(a) of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) provided a rural add-on of 3 percent for episodes and visits ending before January 1, 2018. Therefore, for episodes and visits that end on or after January 1, 2018, a rural add-on payment will not apply. We did not finalize the case-mix adjustment methodology refinements proposed for CY 2019 in this rule.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than \$7.5 million to \$38.5 million in any one year. For the purposes of the RFA, we consider all HHAs small entities as that term is used in the RFA. Individuals and states are not included in the definition of a small entity. The economic impact assessment is based on estimated Medicare payments (revenues) and HHS’s practice in

interpreting the RFA is to consider effects economically “significant” only if greater than 5 percent of providers reach a threshold of 3 to 5 percent or more of total revenue or total costs. The majority of HHAs’ visits are Medicare-paid visits and therefore the majority of HHAs’ revenue consists of Medicare payments. The Secretary has determined that this final rule will have a significant economic impact on a substantial number of small entities.

The overall impact in estimated total payments from CY 2017 to CY 2018 is a decrease of approximately 0.4 percent. A substantial amount of the variation in the estimated impacts of the policies finalized in this rule in different areas of the country can be attributed to variations in the CY 2018 wage index used to adjust payments under the HH PPS, the effects of the updated case-mix weights, the sunset of the rural add-on provision, and the nominal case-mix reduction. The effects of the nominal case-mix reduction are minimized by spreading the reduction over 3 years (CYs 2016 through 2018).

Non-profit agencies are anticipated to fare better than proprietary agencies as a result of the provisions of this final rule. Non-profit HHAs are estimated to see a 0.2 percent decrease in payments, while proprietary HHAs are estimated to see a 0.4 percent decrease in payments in CY 2018. Freestanding HHAs are estimated to see a 0.3 percent decrease in payments while facility-based HHAs are estimated to see a 0.4 percent decrease in payments for CY 2018. Based on the number of first episodes, smaller HHAs (with less than 100 home health episodes of care) are estimated to experience a 0.2 percent decrease in payments for CY 2018. In contrast, larger HHAs (with 1,000 or more home health episodes of care) are estimated to experience a 0.6 percent decrease in payments for CY 2018. HHAs in the East South Central are estimated to see a 1.6 percent decrease in payments while HHAs in the Pacific are estimated to receive a 0.6 percent increase in payments in CY 2018.

We provides the following on-line manuals that present compliance information regarding our home health regulations. The manuals are frequently updated to reflect the latest changes in Medicare home health policy. These manuals serve, in part, as a system of small entity compliance guides that meet the letter and spirit of SBREFA.

Medicare Benefit Policy Manual; Chapter 7- Home Health Services:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c07.pdf>.

Medicare Claims Processing Manual; Chapter 10- Home Health Agency Billing:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c10.pdf>.

We also conduct Open Door Forums (ODFs) to improve transparency in our policies. These forums provide small entities with an opportunity to obtain information, ask questions, and express their views to senior CMS officials on nearly all major regulatory issues, especially those that might affect providers in a new or burdensome way. As such, information on Home Health, Hospice, and Durable Medical Equipment ODFs can be found at https://www.cms.gov/Outreach-and-Education/Outreach/OpenDoorForums/ODF_HHHDME.html.

We also informs the public about the changes we are proposing or making in the programs that it administers. We post the Quarterly Provider Update at the beginning of each quarter at <https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Policies/QuarterlyProviderUpdates/>.