PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2018-D16

PROVIDER –
St. Joseph's Hospital

Provider No.: 33-0108

vs.

MEDICARE CONTRACTOR –
National Government Services, Inc.

DATE OF HEARING -
February 7, 2017

Fiscal Year End – 2017

CASE NO.: 16-2080

INDEX

ISSUE STATEMENT

Whether the Provider should be subjected to a reduction of one quarter of the market basket update to the fiscal year ("FY") 2017 Inpatient Prospective Payment System ("IPPS") rates for the failure to meet the Hospital Inpatient Quality Reporting ("IQR") Program requirements.[1]

DECISION

After considering the Medicare law and regulations, the parties' contentions, and the evidence submitted, the Provider Reimbursement Review Board ("Board") concludes that the reduction of the Provider's market basket update for FY 2017 was proper.

INTRODUCTION

St. Joseph's Hospital ("St. Joseph's" or "Provider") is an acute care hospital located in Elmira, NY. On March 14, 2016, the Centers for Medicare and Medicaid Services ("CMS") notified St. Joseph's that it failed to meet IQR program requirements which would result in a one-fourth reduction in its FY 2017 IPPS Annual Payment Update ("APU"). On March 16, 2016, St. Joseph's requested that CMS reconsider its decision and on June 21, 2016, CMS upheld the payment reduction.

St. Joseph's timely appealed that decision and has met the jurisdictional requirements for a hearing before the Board. A telephonic hearing was held on February 7, 2017 at the request of the parties. Anu Banerjee of Arnot Health represented St. Joseph's. Edward Lau, Esq., of Federal Specialized Services represented National Government Services, Inc. ("Medicare Contractor").

STATEMENT OF FACTS AND RELEVANT LAW

The Medicare program pays acute care hospitals for inpatient services under the inpatient prospective payment system ("IPPS").[2] Under IPPS, the Medicare program pays hospitals predetermined, standardized amounts per discharge[3] and the standardized payment is updated annually, (the "market basket update"), to account for increases in operating costs.[4]

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003[5] established the IQR program that requires each hospital to submit quality of care data "in a form and manner, and at a time, specified by CMS."[6] For fiscal years 2015 and beyond, CMS reduces the hospital's market basket update by one-fourth if a hospital fails to report the required quality data under the IQR program.[7] A hospital that is subject to this penalty during a given year is also

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[1] Transcript at 5-6.
[2] *See* 42 U.S.C. § 1395ww(d); 42 C.F.R. Part 412. IPPS hospitals are often referred to as "subsection (d) hospitals."
[3] *See* 42 C.F.R. Part 412.
[4] *See* 42 U.S.C. § 1395ww(b)(3).
[5] Pub. L. No. 108-173, 117 Stat. 2066 (2003).
[6] 42 C.F.R. § 412.140(c).
[7] *See* 42 U.S.C. § 1395ww(b)(3)(B)(viii)(I); 42 C.F.R. § 412.64(d)(2)(i)(C).

excluded from participation in the value-based purchasing ("VBP") program and ineligible to receive any value-based incentive payments for that year.[8]

For FY 2017 payment determinations, CMS required hospitals participating in the IQR program to submit data including clinical measures and population sampling data to the *QualityNet* Secure Portal.[9] Hospitals had to submit the population and sampling data at various times, including a November 1, 2015 deadline for Quarter 2 (April-June) and a February 1, 2016 deadline for Quarter 3 (July-September) and submit clinical process measure data by February 15, 2016.[10]

St. Joseph's is a small, 14-bed community hospital. Most of its services were consolidated with the main hospital, Arnot Ogden Medical Center, in 2011.[11] The single employee who was responsible for submitting St. Joseph's IQR data, left right before the February 1, 2016 reporting deadline.[12] When another employee learned of the February 1 data submission deadline, he attempted to log into the *QualityNet* system but was not able to because his login information was inactive, and because "[t]he issues was [sic] with the system."[13] As a result, the Provider could not timely submit some of the required IQR data.[14]

CMS reduced St. Joseph's market basket update because St. Joseph's failed to submit aggregate initial patient population and sample size counts for Quarter 2 and Quarter 3 and clinical measures by the deadline for Quarter 3.[15]

DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

St. Joseph's does not dispute that its data was not entered timely. However, the Provider states that an honest attempt was made to input the data to satisfy the IQR requirements, and requests that it not be penalized.[16] The Medicare Contractor argues that the Provider did not follow CMS' best practices that recommended at least two people have active accounts with *QualityNet* and that the Provider failed to act prudently in submitting the data timely resulting in the penalty.[17]

Based on its review of the record, the Board finds St. Joseph's failed to timely submit the required IQR data in the form, time, and manner as required by the Secretary. The Board finds that an unexpected staffing change and the Provider's failure to follow CMS' recommendations

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[8] *See* 42 U.S.C. § 1395ww(o)(1)(C)(ii); 79 Fed. Reg. 49854, 50048-50049 (Aug. 22, 2014).
[9] Medicare Contractor Exhibit I-10 ("FY 2017 Hospital IQR Program Important Dates and Deadlines").
[10] *Id.*
[11] Transcript at 13-14.
[12] *Id.* at 15.
[13] *Id.* at 15-16.
[14] *Id.*
[15] Letter is included as an attachment to Provider's Individual Appeal Request (July 20, 2016).
[16] Provider's Post Hearing Brief, at D and F.
[17] Medicare Contractor Final Position Paper at 4. CMS issued a Reference Checklist for the IQR program, which includes registration requirements for *QualityNet* suggests that hospitals' authorized "Security Administrators" sign onto *QualityNet* "at least once per month to maintain an active account" that it is "highly" recommended that hospitals designate at least two *QualityNet* Security Administrators to serve as a backup. Medicare Contractor Final Position Paper, Exhibit I-4.

regarding staff registration with the *QualityNet* system[18] led to its failure to timely submit all of the required data by the deadline. The evidence demonstrates that St. Joseph's did not follow the CMS' recommendation of having two Security Administrators,[19] and in fact, did not even have one active Security Administrator at the time of the February 1, 2016 deadline. As a result, when the Security Administrator left, St. Joseph was not able to activate another login before the deadline, and therefore its data could not be submitted timely.

Therefore, the Board concludes that St. Joseph's failed to submit the aggregate initial patient population and sample size counts and the clinical process measure data by the posted submission deadlines in a form and manner, and at a time specific by CMS, and accordingly is subject to a reduction of its market based update for FY 2017 pursuant to 42 C.F.R. § 412.64(d)(2)(i).

DECISION AND ORDER:

After considering the Medicare law and regulations, the parties' contentions and the evidence submitted, the Board concludes that the reduction of the Provider's market basket update for FY 2017 was proper.

BOARD MEMBERS:

L. Sue Andersen, Esq.
Charlotte F. Benson, CPA
Gregory H. Ziegler, CPA, CPC-A

FOR THE BOARD:

/s/
L. Sue Andersen, Esq.
Chairperson

DATE: January 24, 2018

[18] Medicare Contractor's Post Hearing Brief, Exhibit I-4 at 3-5.
[19] *Id.* at 3.