COMMENTS/RESPONSES FOR CMS-1728-94

CMS received several comments in response to the September 4, 2015, 60-Day Notice on the proposed changes to the Home Health Agency (HHA) cost report form CMS-1728-94. CMS will respond to each comment.

GENERAL COMMENTS:

COMMENT:

A commenter requested clarification regarding the effective date of the proposed changes. Specifically, minor changes to the home health sections which include incorporation of the form CMS-339 into Worksheet S-2-1 and the significant changes for the Worksheet O Series for hospice, which are proposed to be effective for cost reporting periods beginning on/after October 1, 2015. Will all the changes be effective at once or will the home health changes be effective sooner?

RESPONSE:

CMS acknowledges the commenter's concern. All of the changes to the home health cost report including the incorporation of the form CMS 339 into Worksheet S-2-1 and the addition of the Worksheet O series which replace the Worksheet K series, for hospice are proposed to be effective for cost reporting periods beginning on or after October 1, 2015.

COMMENT:

A commenter indicated that Worksheet S-3, Part I, lines 10.01 and 10.02 are obsolete and should be eliminated.

RESPONSE:

CMS appreciates the commenter's suggestion to eliminate Worksheet S-3, Part I, lines 10.01 and 10.02. These changes are beyond the scope of this review but will be considered in a subsequent revision to the form CMS-1728.

COMMENT:

A commenter indicated that CMS had recently modified their position on the use of dollar value as a statistical basis of allocation for MME, allowing freestanding hospice providers to use square footage if it was used on a cost report beginning before October 1, 2014 but otherwise they must use dollar value. The commenter also recommended that square footage be the standard basis and allow dollar value as an alternate basis upon request by the provider.

RESPONSE:

It was not CMS's intention to eliminate prior approval of the statistical basis of square footage for MME, whether freestanding or provider based. If a provider was previously using square footage they are to continue using square footage. If a provider is new or did not have prior approval to use square footage they must request the use of an alternate basis. We appreciate the commenter's recommendation regarding the use of square footage and dollar value as an alternative recommended basis. Dollar value is the more appropriate basis as it is the actual cost of the assets that are being depreciated; however, square footage is an acceptable alternative with approval in accordance with CMS Pub. 15-1, chapter 23, §2313.

COMMENT:

A commenter expressed concern that on the existing cost report, cost reclassifications are reported on Worksheet A-4 and flow back to Worksheet A, column 7. Cost adjustments are reported on Worksheet A-5 and flow back to Worksheet A, column 9. This is used to report reclasses and adjustments for Worksheet A cost centers. In order to make reclassifications inside Hospice between levels of care, there is no Worksheet to separately report them. A reconciliation off the cost report will be necessary and the net amounts entered directly on Worksheet O to O-4, column 4. Likewise, the adjustments will be posted to Worksheet A-5 and flow to Worksheet A but must be manually entered on Worksheet O to O-4, column 6. We suggest a separate reclassification and adjustment worksheet just for the O series to provide a better trail for these entries.

RESPONSE:

CMS acknowledges the commenter's concern; however, the process for reporting these costs is similar to how they were reported when the provider was required to file the K series of worksheets. The reclassification amounts listed on Worksheet A, column 7, line 25 were manually input into Worksheet K, column 7, lines 1 through 33 so that the total reported on Worksheet A, column 7, line 25 equaled the amount reported on Worksheet K, column 7, line 34. For the O series of worksheets, the reclassification amount listed on Worksheet A, column 7, line 25 must equal the amount on Worksheet O, column 7, line 100. The reclassifications for Worksheet O, column 7, lines 1 through 17 and 60 through 71 are directly input while the reclassification amounts for lines 25 through 46 are entered on their respective worksheets O-1 through O-4, lines 25 through 46, and are accumulated on Worksheet O, column 7, lines 25 through 46. This same process is used for the adjustments. When the provider completed the K series of worksheets, the amount listed on Worksheet A, column 9, line 25 was manually input into Worksheet K, column 9, lines 1 through 33. The total reported on Worksheet A, column 9, line 25 would equal the amount reported on Worksheet K, column 9, line 34. For the O series of worksheets, the adjustment amount listed on Worksheet A, column 9, line 25 must equal the amount on Worksheet O, column 9, line 100. The adjustments for Worksheet O, column 9, lines 1 through 17 and 60 through 71 are directly input while the adjustment amounts for lines 25 through 46 are entered on their respective worksheets O-1 through O-4, lines 25 through 46, and are accumulated on Worksheet O, column 9, lines 25 through 46.

COMMENT:

A commenter expressed concern about Worksheet S-5, the census data for number of patients, unduplicated census count and average length of stay have been removed. We believe that this is important statistical information and recommend that CMS restore these statistics back on the cost report.

RESPONSE:

CMS appreciates the commenter's suggestion but the census data was no longer necessary and the elimination assisted in burden reduction to the provider.

COMMENT:

A commenter indicated the O Series of the HHA based hospice cost report greatly increased the number of cost centers and also dramatically altered the sequence of allocation. Historically, cost centers were ordered on the degree to which the specific cost center provides benefit, with most benefit listed first and least benefit listed last. We are most concerned about the following cost centers. Plant Operations (line 5), Staff Transportation (line 12) and Volunteer Service Coordination (line 13) – All of these cost centers are allocated after Administrative and General (line 4) is closed out. A significant portion of these of the cost in these cost centers would normally be allocated to Administration. On the current Hospice cost report, all of these cost centers are allocated before Administration and a portion of the cost allocated to Administration. By these cost centers coming after Administration, this will cause a significant distortion in the allocation of costs to other cost centers. The Pharmacy cost center is reported on line 14. We believe that these costs are directly related to the delivery of patient care and should NOT be classified as a General Service Cost Center. This is consistent with the current reporting on the cost report as a direct patient care.

RESPONSE:

We thank the commenter for their suggestion; however, in accordance with CMS Pub. 15-1, chapter 23, §2306.1, nonrevenue-producing general service cost centers serving the greatest number of other nonrevenue-producing general service cost centers are allocated first. We believe the proposed allocation sequence of the hospital-based hospice general service cost centers complies with the referenced citation, and therefore, we will retain the proposed sequence of the HHA-based hospice general service cost centers. In response to the commenter's concern regarding pharmacy costs, CMS agrees these costs are directly related to patient care. The allocation of these costs allows those drugs charged to patients to be allocated to the appropriate level of care based on charges but it also allows for an allocation to nonreimbursable areas that also utilize the pharmacy.

COMMENT:

A commenter expressed concern on Worksheet O-7, for apportionment of shared services costs with HHA, the cost to charge ratio in column 3 is based on HHA costs in column 1 divided by HHA charges in column 2. Since this is for shared services, the cost in column 1 which comes from Worksheet B, column 6, lines 7 to 14, would have cost for home health and hospice combined. Therefore, in order to get the proper cost to charge ratio and apportionment on this worksheet, the charges in column 2 should include home health and hospice charges combined. Therefore, in order to get the proper cost to charge ratio and apportionment on this worksheet, the charges in column 2 should include home health and hospice charges combined. This will compute an accurate cost to charge ratio.

RESPONSE:

CMS acknowledges the commenter's concern and agrees. The instructions for Worksheet O-7, column 2 are identical to the instructions for the prior HHA base hospice Worksheet K-5, Part III, column 3.

COMMENT:

A commenter expressed concern on the freestanding Hospice Cost Report (Form 1984-14), there is a section to report CBSA information –Worksheet S-1, Part I, lines 20 and 21. This is not included on Worksheet S-5 of the HHA Based Hospice cost report. We recommend that CMS include this information on the HHA based cost report.

RESPONSE:

CMS appreciates the commenter's recommendation; however, this cost report's main provider is the HHA and we currently collect the CBSA data for the HHA on Worksheet S-3, Part III, lines 28 and 29. CMS will consider expanding this data collection in a future release if the data becomes necessary.

COMMENT:

A commenter expressed concern that the cost reporting instructions indicate that all data must be actual, not estimated, for each cell of information being requested with these revisions, clearly

stating that estimates would not be a generally acceptable basis upon which to complete the requirements specified. We believe that requiring actual data for expenses such as administrative overhead, utilities, taxes, etc. is overly burdensome, for both small organizations that may not have the accounting systems in place to specifically assign costs to individual information cells specified by these proposed revisions, and for large Health System owned Home Health and Hospice organizations who utilize Generally Accepted Accounting Principles (GAAP) to allocate Division and/or System overhead costs among various service lines, cost centers, departments, etc. The posting of "actual" data for each cell element would require to modify our Payroll tracking processes, to modify our Accounts Payable processing submission practices, to modify our internal monthly reporting practices, and to develop numerous new General Ledger Chart of Accounts categories. All unnecessary expenses to be incurred merely to produce data that will most likely not differ significantly from data produced through the utilization of GAAP acceptable estimating practices.

RESPONSE:

CMS appreciates the commenter's concern however the cost reporting and data collection instructions have not changed. All data must be reported in accordance with the regulations at 42 CFR 413.20 and 413.24.

COMMENT:

A commenter expressed concern that these proposed changes will be effective for HHA and Hospice organizations' reporting for cost reporting year beginning (on or after) October 1, 2015. We believe that due to the scope of procedural, process and system changes may not be ready to comply within the timeframe due to either manpower requirements or funding requirements (or both) that would be necessary to implement such significant changes.

RESPONSE:

CMS acknowledges the commenter's concern and request to delay the implementation date of the hospital-based hospice worksheets. The freestanding hospice cost report was available for review and comment in early April 2013, and the hospice community was made aware that these similar changes were forthcoming in the provider-based hospice worksheets. Upon proposal of

the provider-based hospice worksheets, CMS indicated the effective date was for cost reporting periods beginning on or after October 1, 2014. CMS responded to the provider-based hospice concerns and delayed the effective date of the proposed provider-based hospice worksheets until October 1, 2015, and is not considering any additional delay.

COMMENT:

A commenter indicated that since 2009, CMS has utilized the services of an outside consulting firm to assess home health agency costs. During this time the outside consultant has routinely disclosed that home health agency cost reports related to home health organizations affiliated with a hospital or health system have been excluded from their overall cost assessments. The changes necessary to comply with these new requirements will be both costly and time, if past history continues and our information is excluded from CMS's data compilation.

RESPONSE:

CMS acknowledges the commenter's concern however cost report data employed in our data analyses examining the cost, volume, and intensity of Medicare home health services to support rebasing of the national, standardized 60-day episode payment rate, the national per-visit payment amounts, and the Non-Routine Medical Supplies (NRS) conversion factor are drawn from Fiscal Year (FY) 2000-2012 cost reports from freestanding and hospital-based HHAs.

COMMENT:

A commenter expressed that all hospital/health system affiliated agencies be exempted from annual cost reporting. No longer is there any "cost-dollar" settlement related to this filing, and if CMS has operationalized the exclusion of data from these submissions by hospital/health system affiliated agencies in assessing payment changes (presumably also hospice payment reform), this requirement is an unnecessary reporting burden.

RESPONSE:

CMS has not operationalized the exclusion of cost report data from provider health system affiliated agencies such as an HHA based hospice. The revisions to the HHA based hospice are

necessary to incorporate §3132 of the Patient Protection and Affordable Care Act which requires that CMS collect the appropriate data and information to facilitate hospice payment reform. Additionally, regulations at 42 CFR 413.20 and 413.24 require adequate cost data and cost reports from providers on an annual basis.

COMMENT:

One commenter indicated the estimated cost of $20.00 per hour for all necessary tasks is low and suggested a more reasonable cost rate of $60.00 per hour, fully loaded for benefits ($45.00 for an average wage per hour, plus a $15.00 benefit add-on).

RESPONSE:

CMS acknowledges the commenter's concern and agrees that the estimated cost of $20.00 per hour may be slightly low. CMS disagrees with the commenter's suggestion of a more reasonable cost of $60.00 per hour. We acknowledge that varying levels of employees are involved in this information collection that includes reviewing the instructions, searching existing resources, gathering the data needed and completing and reviewing the information collection. We also acknowledge that some providers retain consultants to prepare their cost reports. In considering all the various employees/consultants average compensation paid for the completion of a provider cost report, CMS determined that a better estimate of cost is $30.00 per hour.