CMS-1539-P-6 **Medicare Program; Hospice Wage Index for Fiscal Year 2008**

Submitter : Mrs. N JEAN BURGENER **Date & Time:** 06/25/2007

Organization : ASPIRUS COMFORT CARE & HOSPICE SERVICES

Category : Hospice

Issue Areas/Comments
GENERAL

GENERAL

SEE ATTACHMENT

CMS-1539-P-6-Attach-1.DOC

June 20, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-1539P
Mail Stop C4-26-05
Baltimore, MD 21244-1850

Dear Mr. Kuhn:

I am writing on behalf of Aspirus Comfort Care and Hospice Services to comment on "Medicare Program; Hospice Wage Index for Fiscal Year 2008" (CMS-1539P.) Last year we were able to provide quality, compassionate end-of-life care to nearly 600 patients and their families. We also provide important end-of-life care education and support to our community at large. We appreciate the opportunity to comment on this proposed rule.

At the outset, we would like to express our continued support for the hospice wage index approach reflected in this rule which was developed based on "negotiated rulemaking" with CMS. We would request that any future changes proposed for hospice payment policy follow this precedent rather than "notice and comment" rulemaking. We believe the particularly sensitive nature of the hospice benefit and the good working relationship between CMS and the associations representing Medicare hospices warrants a collaborative approach in hospice rulemaking.

We would also note that the increasing interest reflected in Congress and MedPAC in finding a more reasonable and consistent approach to constructing wage index adjusters for hospitals and post-acute care providers will inevitably have implications for hospice payment. We would urge CMS to be mindful of these implications as it participates in efforts to reform the hospital wage index approach. We believe that any significant change in the hospital wage index approach will require a carefully considered and extended transition period to prevent disruptive payment swings in the affected providers, including hospices.

Rural Areas without Wage Index Data

Aspirus Comfort Care and Hospice Services supports the provision in the proposed rule to back-fill the wage index for rural hospices in areas without a rural hospital wage index with the average wage index from continuous CBSA areas. While this is far from an ideal approach, this alternative comes closest to an equitable solution to resolve the fundamental flaw in using hospital data to adjust payments to non-hospital providers. Presumably a better alternative will emerge in the course of revising the hospital wage index approach over the next few years.

Site of Service

Aspirus Comfort Care and Hospice Services supports the proposal to wage index adjust all hospice payments based on the site of service are provided rather than the location of the hospice office. We believe this is entirely consistent with the purpose of wage index adjustment.

Caregiver Breakdown and General Inpatient Care

At the outset, we would assure you that ACCHS shares CMS' concern that General Inpatient Care (GIC) not become a source of potential program abuse in the Medicare program. We strongly support steps to eliminate the potential collusion and inducements that may generate inappropriate billing for GIC. That having been said, we are very concerned that CMS' policy clarification on the coverage of General Inpatient Care is overly prescriptive in totally eliminating coverage for GIC in situations of caregiver breakdown.

We understand the guidelines for providing inpatient respite care for no more than 5 days a time. However, we occasionally encounter patients whose informal care network collapses and is not recoverable after a period of brief respite. We would prefer to continue to support those individuals in their own homes if they could be cared for at home. But we have concluded in those rare situations where we cannot effectively reconstruct caregiver support in a few days, GIC provides the only option short of discharge to a long-term care facility. However, our understanding of this CMS policy clarification is that GIC would no longer be available to those few patients in this situation. The policy clarification is silent about what a hospice is to do in such a situation. The implication is that hospice care must be terminated since there is no Medicare hospice benefit category available under which the patient can be adequately cared for.

We suggest that this policy be revised to allow either extended respite or the use of GIC in those rare situations in which the hospice has documented that despite its best efforts and the prudent use of inpatient respite, a sufficient caregiver network cannot be restored in a few days. Alternatively, CMS may wish to propose some alternative payment mechanism under hospice to accommodate this situation. We do no believe CMS' unspoken alternatives of discharge from hospice care to a long-term care facility is good for the patient or good for the Medicare program. We would be happy to work with CMS to find an alternative policy that meets the needs of patients in these situations while protecting Medicare from abusive billing and referral practices.

Thank you for the opportunity to comment on these proposed regulations. We would welcome the opportunity to clarify or expand upon these comments upon request. You can contact me at me at 715-847-2969.

Sincerely,

Jean Burgener
Vice President of Extended Services

tg

cc: Congressman Dave Obey
Senator Russ Decker
Senator Herb Kohl

CMS-1539-P-7 **Medicare Program; Hospice Wage Index for Fiscal Year 2008**

Submitter : Mr. Andy Carter **Date & Time:** 06/26/2007

Organization : Visitng Nurse Associations of America

Category : Health Care Provider/Association

Issue Areas/Comments

Care Giver Bareakdown and General Inpatient Care

Care Giver Bareakdown and General Inpatient Care

See Attachment

Educational Requirements for Nurse Parctitioners

Educational Requirements for Nurse Parctitioners

See Attachment

GENERAL

GENERAL

See Attachment

Payment for Hospice Care Based on Location

Payment for Hospice Care Based on Location

See Attachment

CMS-1539-P-7-Attach-1.DOC

CMS-1539-P-7-Attach-1.DOC

CMS-1539-P-7-Attach-1.DOC

CMS-1539-P-7-Attach-1.DOC

June 26, 2007
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-1539P
Mail Stop C4-26-05
7500 Security Blvd.
Baltimore, MD 21244-1850

Dear Mr. Kuhn

I am writing on behalf of the Visiting Nurse Associations of America (VNAA) to comment on "Medicare Program; Hospice Wage Index for Fiscal Year 2008" (CMS-1539P.) The VNAA represents over 400 non-profit, community based Visiting Nurse Associations (VNAs) across the country, many of whom operate Medicare certified hospices in addition to home health agencies. We appreciate the opportunity to comment on this proposed rule.

At the outset, we would like to express our continued support for the hospice wage index approach reflected in this rule which was developed based on "negotiated rulemaking" with CMS. We would request that any future changes proposed for hospice payment policy follow this precedent rather than "notice and comment" rulemaking. We believe the particularly sensitive nature of the hospice benefit and the good working relationship between CMS and the associations representing Medicare hospices warrant a collaborative approach in hospice rulemaking.

We would also note that the increasing interest reflected in Congress and MedPAC in finding a more reasonable and consistent approach to constructing wage index adjusters for hospitals and post-acute care providers will inevitably have implications for hospice payment. We would urge CMS to be mindful of these implications as it participates in efforts to reform the hospital wage index approach. We believe that any significant change in the hospital wage index approach will require a carefully considered and extended transition period to prevent disruptive payment swings in the affected providers, including hospices.

Rural Areas without Wage Index Data

VNAA supports the provision in the proposed rule to back-fill the wage index for rural hospices in areas without a rural hospital wage index with the average wage index from continuous CBSA areas. While this is far from an ideal approach, this alternative comes closest to an equitable solution to resolve the fundamental flaw in using hospital data to adjust payments to non-hospital providers. Presumably a better alternative will emerge in the course of revising the hospital wage index approach over the next few years.

Site of Service

VNAA supports the proposal to wage index adjust all hospice payments based on the site of service rather than the location of the hospice office. We believe this is entirely consistent with the purpose of wage index adjustment.

Caregiver Breakdown and General Inpatient Care

At the outset, we would assure you that VNAA shares CMS' concern that General Inpatient Care (GIC) not become a source of potential program abuse in the Medicare program. We and our members have been in contact with CMS and the Office of Inspector General to report specific situations in which we believe inappropriate GIC is being furnished in such a way as to suggest a pattern of abusive conduct between hospice providers and inpatient facilities. We strongly support steps to eliminate any potential collusion or inducements between hospices and inpatient facilities that may generate inappropriate billing. That having been said, we are very concerned that CMS' policy clarification on the coverage of General Inpatient Care is overly prescriptive in totally eliminating coverage for GIC in situations of caregiver breakdown.

We understand the guidelines for providing inpatient respite care for no more than 5 days at a time and for General Inpatient Care. However, we occasionally encounter patients whose informal care network collapses and is not recoverable after a period of brief respite. Not surprisingly, such breakdowns often occur when the patient's needs are quite heavy. We would prefer to continue to support those individuals in their own homes if they could be cared for at home. But we have concluded in those rare situations when we cannot effectively reconstruct caregiver support in a few days, GIC provides the only option short of discharge to a long-term care facility. However, our understanding of this CMS policy clarification is that GIC would no longer be available to those few patients in this situation. The policy clarification is silent about what a hospice is to do in such a situation. The implication is that hospice care must be terminated since there is no Medicare hospice benefit category available under which the patient can be adequately cared for. As a purely practical matter, even if CMS' preferred solution is discharge to a long-term care facility, the admission process in some states requires multiple levels of approval that can take many days. There needs to be a humane and practical alternative for such patients.

We suggest that this policy be revised to allow the use of GIC in those rare situations in which the hospice has documented that, despite its best efforts and the prudent use of inpatient respite, a sufficient caregiver network cannot be restored in a few days to permit care at home. Alternatively, CMS may wish to propose an alternative payment mechanism under hospice to accommodate this situation. We do not believe CMS' unspoken alternative of discharge from hospice care to a long-term care facility is in the best interest of the patient or good for the Medicare program. We would be happy to

work with CMS to find an alternative policy that meets the needs of patients in these situations while protecting Medicare from abusive billing and referral practices.

Thank you for the opportunity to comment on these proposed regulations. We would welcome the opportunity to clarify or expand upon these comments upon request. You can contact Bob Wardwell, Vice President for Regulatory and Public Affairs or me at our Washington Office at 240-485-1855.

Sincerely,

Andy Carter
President and CEO

CC: Carol Blackford

CMS-1539-P-8 **Medicare Program; Hospice Wage Index for Fiscal Year 2008**

Submitter : Mr. Thomas Jendro **Date & Time:** 06/27/2007

Organization : Illinois Hospital Association

Category : Health Care Provider/Association

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-1539-P-8-Attach-1.DOC

#8

June 27th, 2007

Ms. Leslie Norwalk, Esq.
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

ATTN.: CMS-1539-P

Re: Medicare Program; Hospice Wage Index for Fiscal Year 2008; Proposed Rule, Federal Register, Volume 72, No. 83, Tuesday, May 1, 2007

Dear Ms. Norwalk:

On behalf of our approximately 200 member hospitals and health care systems, the Illinois Hospital Association (IHA) is taking this opportunity to formally comment on the proposed rule establishing the wage index values for hospice services for fiscal year 2008. IHA presents the following comments for your consideration:

Annual Update to the Hospice Wage Index:

- The rule provides for a full market basket payment update for FY 2008; rates are scheduled to be published at a later date. While the Illinois Hospital Association supports CMS' implementation of the full update amount, it urges CMS to publish the rates for the four hospice levels of care (whether proposed or final) as part of the Federal Register notice of the changes to the wage index. The proposed rule indicates that the adjustments to the specific payment rates were not incorporated into the proposed rule "...Due to the need to ensure appropriate time for implementing changes..." This vague explanation for the omission of these rates is puzzling, especially in light of the fact that for all other levels of service (i.e., inpatient or outpatient acute, rehabilitation, skilled nursing, psychiatry or home health), payment rules as published in the Federal Register always list the base payment rates. The publishing of these rates in the same Federal Register in which the wage index values are published will facilitate easier reference for hospice providers and others.

Site of Service:

- The rule provides that effective with services furnished on or after January 1st, 2008, payment to the hospice will be based upon the wage index value assigned

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to the area where the hospice services were provided, as opposed to the area where the hospice corporate office is located. While this recommendation is consistent with the Medicare payment rules for home health services, CMS does acknowledge that current hospice billing information does not provide site-of-service locations. It is not known at this time what additional administrative burdens this requirement would place on hospice providers, nor is the dollar impact of such a change known. CMS states: "Therefore, we are unable to predict the savings or costs associated with the changes associated with this proposed provision." **Therefore, while the Illinois Hospital Association supports, in theory, the proposed site of service payment rule, it suggests that CMS suspend its implementation of this rule until such time as accurate site of service data can be obtained from providers and subsequently, a reasonable estimate of the dollar impact of this change can be made.**

Ms. Norwalk, thank you again for the opportunity to comment. The Illinois Hospital Association also welcomes the opportunity to work with your agency in the continued development and refinement of the Medicare payment system for all providers.

Sincerely,

Thomas A. Jendro
Senior Director-Finance
Illinois Hospital Association
(630) 276-5516
tjendro@ihastaff.org

CMS-1539-P-9 **Medicare Program; Hospice Wage Index for Fiscal Year 2008**

Submitter : Ms. Rose Dunaway **Date & Time:** 06/27/2007

Organization : Texas Association for Home Care

Category : Other Association

Issue Areas/Comments
GENERAL

GENERAL

See attachment

CMS-1539-P-9-Attach-1.DOC

#9

June 27, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS – 1539 -P
P.O. Box 8012
Baltimore, MD 21244-1850

Via: Electronic Submission

Re: Medicare Program; Hospice Wage Index for Fiscal Year 2008

72 Federal Register 83 (May 1, 2007)

File Code CMS – 1539 -P

From: The Texas Association for Home Care

To Whom it May Concern:

The Texas Association for Home Care (TAHC) represents over 950 Licensed Home and Community Support Services Agencies which include hospice agencies. We appreciate the opportunity to provide comments on the aforementioned proposed rule published in the Federal Register May 1, 2007. Below are our comments to the proposed rule.

Comments Regarding Section II. Provisions of this Proposed Rule

Section D. Site of Service

TAHC agrees with the proposed rule to base the hospice payment rates on the geographic wage index value of the area where the hospice services are provided, and supports the amendment to §418.302(g) to reflect the proposed change.

Section E. 1. Nurse Practitioners

TAHC supports the revision of the definition of "attending physician" at §418.3 to cross reference the requirement outlined in §410.75(b).

Section E.2. . Care Giver and General Inpatient Care

TAHC supports the clarification regarding the criteria for billing Medicare for the levels of care general inpatient and inpatient respite based on the level of care provided and not the location of the care.

Section E.3. Certification

TAHC supports the clarification that a certification of terminal illness requires a physician and the medical director to determine a patient's prognosis and to sign the certification attesting to that fact.

Sincerely,

Rose Dunaway, BSN, RN

Rose Dunaway, BSN, RN
Community Care and Hospice Specialist
Texas Association for Home Care