

**PROVIDER REIMBURSEMENT REVIEW BOARD
DECISION**

ON THE RECORD
2017-D29

PROVIDER –
Doctor’s Memorial Hospital

Provider No.: 10-0106

vs.

MEDICARE CONTRACTOR –
First Coast Service Options, Inc.

DATE OF HEARING -
July 6, 2016

Cost Reporting Period Ended -
September 30, 2016

CASE NO.: 15-2800

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ISSUE STATEMENT

Whether the payment penalty that the Centers for Medicare & Medicaid Services (“CMS”) imposed under the Hospital Inpatient Quality Reporting (“IQR”) program to reduce the Provider’s payment update for fiscal year (“FY”) 2016 by twenty-five percent of the 2.7 percent Market Basket update was proper?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 2016 was proper.

INTRODUCTION

Doctor’s Memorial Hospital (“Doctor’s” or “Provider”) is an acute care hospital located in Perry, Florida. On March 16, 2015, CMS notified Doctor’s that it failed to meet IQR program requirements which would result in a one-fourth reduction in Doctor’s FY 2016 market basket update payment. Specifically, CMS alleged that Doctor’s failed to timely report Healthcare Associated Infection (“HAI”) data for the second quarter of calendar year (“CY”) 2014 as required under the IQR program. Following Doctor’s request for reconsideration, CMS upheld its decision.

Doctor’s timely appealed that decision and has met the jurisdictional requirements required for a hearing before the Board. At the request of the parties, the Board conducted a hearing on the record. The Provider represented itself at the record hearing. First Coast Service Options, Inc. (“Medicare Contractor”) was represented by Edward Lau, Esq., of Federal Specialized Services.

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, subject to certain payment adjustments.³ The standardized amounts are increased each year by the “market basket update” to account for increases in operating costs.⁴

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003⁵ amended 42 U.S.C. § 1395ww(b)(3)(B) to establish the IQR program and 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

¹ Provider’s Final Position Paper (Sept. 1, 2015) at 2.

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).

2015 and beyond, CMS reduces the hospital's annual IPPS market basket percentage increase 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 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 2016 payment determinations, CMS required hospitals participating in the IQR program to submit data regarding various HAIs beginning January 1, 2014.⁹ CMS instructed the hospitals to submit the required HAIs through the Centers for Disease Control and Prevention's computer system called the National Healthcare Safety Network ("NHSN").¹⁰ CMS posted IQR program instructions and deadlines for quarterly data submission on the QualityNet Exchange Web Site.¹¹

The parties stipulated that Doctor's failed to meet the requirements of the HAI IQR program for FY 2016.¹² The parties also stipulated that during the quarter in question, a change in Doctor's staffing had a new employee submitting the quality measures, and this employee was not aware of previous submission obstacles and experienced technical difficulties with the submission.¹³

DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

Doctor's asserts that submitting data to NHSN had been problematic on multiple occasions.¹⁴ Doctor's explained that prior employees who had submitted data were familiar with the complications encountered with the NHSN system and compensated for the data submission issues by "verifying and double check[ing] data right up to the deadline."¹⁵ A new employee responsible for submitting the data, however, was not aware of the prior obstacles with data submission and did not verify and double check the submission prior to the deadline. Additionally, when submitting the second quarter data for the 2014 benefit year, Doctor's experienced "internal technical issues with data submission."¹⁶

Notwithstanding the problems with data submission, Doctor's asserts it did submit the measures into the NHSN website, but due to continued internal problems with the NHSN transmissions, it appeared as though CMS was unable to retrieve the data from NHSN.¹⁷ Doctor's contends that it worked with the Florida Hospital Association to "proactively identify reporting concerns, monitor and improve Quality Measures and improve patient safety."¹⁸

⁷ See 42 U.S.C. § 1395ww(b)(3)(B)(viii)(I); 42 C.F.R. § 412.64(d)(2)(i)(C).

⁸ See 42 U.S.C. § 1395ww(o)(1)(C)(ii); 79 Fed. Reg. 49854, 50048-50049 (Aug. 22, 2014).

⁹ See 78 Fed. Reg. 50495, 50821 (Aug. 19, 2013).

¹⁰ See <http://www.QualityNet.org>.

¹¹ *Id.*

¹² See Stipulations dated February 19, 2016 at ¶ 9.

¹³ See Stipulations at ¶¶ 5 through 7.

¹⁴ Provider's Final Position Paper at 2.

¹⁵ Provider's Final Position Paper at 2; Stipulations at ¶ 7.

¹⁶ Stipulations at ¶ 5.

¹⁷ Stipulations at ¶ 6.

¹⁸ Provider's Final Position Paper at 3.

In response to the arguments and contentions made by Doctor's, the Medicare Contractor maintains that CMS "does not accept internal transitions and staffing changes as a valid reason for failing to submit quality data. This is the hospital's responsibility to ensure that new staff is adequately trained and aware of the requirements."¹⁹

The Board's review of the record does not find sufficient evidence to conclude that NHSN system issues prevented Doctor's timely submission of the IQR program data. Rather, the Board finds evidence that a staffing change at Doctor's caused its data submission issues. Therefore, the Board concludes that Doctor's failed to report its second quarter IQR program data for CY 2014 in in a form and manner, and at a time, specified by CMS and, accordingly, is subject to a reduction in its market basket update for FY 2016 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 2016 was proper.

BOARD MEMBERS PARTICIPATING:

L. Sue Andersen, Esq.
Clayton J. Nix, Esq.
Charlotte F. Benson, CPA
Jack Ahern, MBA, FHFMA
Gregory H. Ziegler, CPA

FOR THE BOARD:

/s/
L. Sue Andersen, Esq.
Chairperson

DATE: September 26, 2017

¹⁹ Medicare Contractor's Final Position Paper (Nov. 30, 2015) at 4.