

PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2019-D9

PROVIDER –
Christian Healthcare Center d/b/a Ramapo
Ridge

LIVE HEARING HELD –
February 14, 2018

PROVIDER NO. – 31-4019

FISCAL YEAR– 2017

vs.

MEDICARE CONTRACTOR –
Novitas Solutions, Inc.

CASE NO. – 17-1958

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ISSUE STATEMENT:

Whether Christian Health Care Center (d/b/a Ramapo Ridge Psychiatric Hospital (“Ramapo Ridge” or “Provider”) is entitled to the full market basket adjustment to its rate for fiscal year (“FY”) 2017.¹

DECISION:

After considering Medicare law and regulations, arguments presented, and the evidence admitted, the Provider Reimbursement Review Board (“Board”) finds that the 2 percent reduction of Ramapo Ridge’s annual percentage update (“APU”) for FY 2017 was proper.

INTRODUCTION:

Ramapo Ridge is a 58-bed inpatient psychiatric hospital licensed in the state of New Jersey.² The Provider’s designated Medicare administrative contractor is Novitas Solutions, Inc. (“Medicare Contractor”).

In a letter dated September 15, 2016, the Centers for Medicare and Medicaid Services (“CMS”) reduced Ramapo Ridge’s APU by 2 percent for FY 2017 because it failed to meet all of the Inpatient Psychiatric Facility Quality Reporting (“IPFQR”) Program requirements established by CMS.³ On September 22, 2016, Ramapo Ridge requested that CMS reconsider its decision.⁴ In a letter dated February 16, 2017, CMS notified Ramapo Ridge that it was upholding its decision to grant only the reduced APU for FY 2017.⁵

On August 3, 2017, Ramapo Ridge timely appealed that decision to the Board and met the jurisdictional requirements for a hearing. The Board held a telephonic hearing on February 14, 2018. Gregory J. Palakow, Esq. of Archer & Greiner, P.C. represented Ramapo Ridge. Scott Berends, Esq. of Federal Specialized Services represented the Medicare Contractor.

STATEMENT OF FACTS:

Section 124 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 implemented a per diem prospective payment system for inpatient hospital services furnished by psychiatric hospitals.⁶ This inpatient psychiatric facility prospective payment system (“IPF PPS”) was subsequently implemented for cost reporting periods beginning on or after January 1, 2005.⁷ Since Congress did not specify a strategy for updating the payment rates under IPF PPS, the Secretary adopted an annual update methodology based on the approach used in other

¹ The Parties stipulated to the issue statement at the hearing. *See* Transcript (“Tr.”) at 6.

² Tr. at 8.

³ Exhibit P-10.

⁴ Exhibit P-12.

⁵ Exhibit P-13.

⁶ Pub. L. No. 106-113, Appendix F, 113 Stat. 1501A-321, 1501A-332 (1999).

⁷ 69 Fed. Reg. 66921, 66964-67 (Nov. 15, 2004).

hospital prospective payment systems, with the first update to the IPF PPS scheduled for July 1, 2006.⁸

42 U.S.C. § 1395ww(s)(4), as amended by §§ 3401(f) and 10322(a) of the Affordable Care Act (the “ACA”),⁹ required the Secretary to implement the IPFQR Program starting with the FY 2014 payment determination.¹⁰ Section 1395ww(s)(4) ties receipt of the full APU each year to participation in this quality reporting program. Indeed, it requires that, for FY 2014 and each subsequent fiscal year, the Secretary shall reduce the APU by 2 percentage points for any inpatient psychiatric hospital that does not comply with the quality data submission requirements for that fiscal year.¹¹ Section 1395ww(s)(4) states that psychiatric facilities must submit their quality data measures in a form and manner, and at a time, specified by the Secretary.¹²

In the final rule published on August 6, 2014, CMS announced the IPFQR Program requirement for inpatient psychiatric hospitals to report data for the “influenza vaccination coverage among healthcare personnel” (“Influenza Vaccine Data”) quality measure, beginning with the FY 2017 payment determination.¹³ The final rule further specified that the reporting period for the influenza vaccination measure tied to the FY 2017 payment determination was the 2015–2016 influenza season (*i.e.*, from October 1, 2015, to March 31, 2016).¹⁴ The Influenza Vaccine Data was to be submitted through the Centers for Disease Control and Prevention’s (“CDC’s”) National Healthcare Safety Network (“NHSN”), with an initial reporting deadline of May 15, 2016 for the FY 2017 payment determination.¹⁵ The reporting deadline for FY 2017 was later extended to June 15, 2016.¹⁶ Finally, the final rule directed participants to the QualityNet web site to access a manual that would contain direction regarding the form, manner, and timing of the quality measures’ data submission for the IPFQR Program.¹⁷ NHSN provides a number of resources on its website, including Frequently Asked Questions for CMS quality reporting programs¹⁸ and an Enrollment and Set-Up Checklist for Inpatient Psychiatric Facilities.¹⁹

DISCUSSION, FINDINGS OF FACT AND CONCLUSIONS OF LAW:

On March 4, 2016, Ramapo Ridge received an e-mail notifying them that they had not registered with NHSN for the 2015-16 influenza season. It stated that failure to register in a timely manner

⁸ *Id.* at 66966.

⁹ Pub. L. No. 111-148, 124 Stat. 119, 483, 952 (2010).

¹⁰ *See also* 77 Fed. Reg. 53257, 53644-45 (Aug. 31, 2012).

¹¹ *Id.*

¹² 42 U.S.C. § 1395ww(s)(4)(C). *See also* 42 C.F.R. § 412.424(d)(1)(vi)(A).

¹³ 79 Fed. Reg. 45937, 45970 (Aug. 6, 2014).

¹⁴ *Id.* at 45969.

¹⁵ *Id.* at 45969; *see also* Inpatient Psychiatric Facility Quality Reporting Program Manual at 27, 29 (Version 2.0, Jan. 6, 2016) (available at <https://www.qualitynet.org/dcs/ContentServer?c=Page&pagename=QnetPublic%2FPPage%2FQnetTier2&cid=1228772864255>).

¹⁶ Medicare Contractor’s Final Position Paper at 4.

¹⁷ 79 Fed. Reg. at 45976. *See also* 77 Fed. Reg. at 53654-53655.

¹⁸ (Last reviewed March 30, 2015) (available at https://www.cdc.gov/nhsn/faqs/cms/faq_cms_hai.html).

¹⁹ (Last revised April, 2015) (available at <https://www.cdc.gov/nhsn/PDFs/IPFs/IPF-Enrollment-Checklist.pdf>).

could jeopardize their ability to submit influenza data and risk an APU reduction for FY 2017.²⁰ It also “encouraged [Ramapo Ridge] to review the resources . . . for guidance on the NHSN enrollment and HCP measure data processes” and provided links to these resources as well as information on how to contact the NHSN help desk.²¹

On May 4, 2016, Ramapo Ridge confirmed that it had a NHSN registration under Facility ID 44446, and that Influenza Vaccine Data had been entered to NHSN under that Facility ID.²² On June 8, 2016, Ramapo Ridge contacted NHSN to inquire about the notice it received stating that their Influenza Vaccine Data had not been received.²³ The next day, a NHSN contact advised Ramapo Ridge by email that their NHSN registration under Facility ID 44446 was for “a rehabilitation facility rather than a psychiatric facility, which is why the data entered on May 4 were not shared with CMS.”²⁴ As a consequence, the NHSN contact informed them that they would have to re-enroll in NHSN with the correct facility type in order to successfully enter their Influenza Vaccine Data.²⁵ Ramapo Ridge was then given a point of contact to “assist” with the re-enrolling process and was also given the following advice: “When setting up the new facility, be sure to enter the correct CCN [*i.e.*, CMS Certification Number] so that your data can be shared with CMS.”²⁶

On June 13, 2016, Ramapo Ridge was ultimately re-enrolled within NHSN as a psychiatric hospital under the new Facility ID 46693.²⁷ On June 14, 2016, Ramapo Ridge logged into NHSN and entered their Influenza Vaccine Data under the new Facility ID.²⁸ In September 2016, Ramapo Ridge was advised that it had failed to submit the required quality data for the IPFQR Program and that its FY 2017 APU would be reduced by 2 percent.²⁹ In February 2017, CMS declined to reconsider that decision.³⁰

As a consequence, on March 1, 2017, Ramapo Ridge reached out to the NHSN for clarification.³¹ It was at this time that Ramapo Ridge was told their enrollment for Facility ID 46693 was incomplete because both the field for their CCN and the field for the effective date for that CCN were left blank and these deficiencies prevented their data from being transmitted from NHSN to CMS.³² Ramapo Ridge was also provided screen shots of the Facility Information pages on NHSN for the original Facility ID 44446 and the new Facility ID 46693.

²⁰ Exhibit P-2.

²¹ *Id.*

²² See Provider’s Position Paper at 3; Exhibit P-3.

²³ Exhibit P-5.

²⁴ Under Facility ID 44446, the “Facility Name” field contained “ramapo ridge psychiatric hospital”, but under facility type, rehabilitation hospital was selected. Exhibit P-16 at 3.

²⁵ Exhibit P-5.

²⁶ *Id.*

²⁷ Exhibits P-6 through P-8.

²⁸ Exhibit P-9.

²⁹ Exhibit P-10.

³⁰ Exhibit P-13.

³¹ Exhibit P-16 at 4.

³² Exhibit P-16.

The screen shots showed how the fields for the CCN and CCN Effective Date were completed on the original Facility ID but left blank on the new Facility ID.³³

Ramapo Ridge argues that, when it contacted the NHSN to assist in re-enrolling to get the new Facility ID activated, it was the NHSN contact that omitted the fields for the CCN and effective date of that CCN under the new Facility ID.³⁴ Ramapo Ridge assumed that this contractor would complete their enrollment in its entirety.³⁵

Although the Board is sympathetic to Ramapo Ridge's position, the IPFQR Program manuals and materials make clear that it is a reporting facility's obligation to enroll with NHSN. In April, 2015, NHSN provided a Facility Enrollment & Set-Up Checklist which walks facilities through the enrollment process.³⁶ In particular, it instructs facilities to verify and update their CCN, stating:

Step 2: Verify Your Facility's CMS Certification Number (CCN)

After logging into NHSN, click "Facility" on the navigation bar, and then click "Facility Info." At the top of the Facility Information screen, verify and update, if necessary, the CCN in the appropriate data entry field. If any changes have been made, remember to click the "Update" button at the bottom of the screen. *Please be sure to double- and triple-check this number!*

Note: An accurate CCN is required for those facilities participating in CMS Quality Reporting Programs, as this is the ID that will be used to submit data to CMS on your behalf.³⁷

The CDC has also published Frequently Asked Questions ("FAQs") for CMS Quality Reporting Programs, which specifically addresses situations where a CCN is not validated when a facility is enrolled into NHSN.³⁸ Those FAQs contain step-by-step instructions on how a facility can correct its CCN, and caution that, if the CCN is not entered into NHSN by the CMS reporting deadline, the facility's data will *not* be sent to CMS.³⁹ In addition to these publicly available resources, on June 9, Ramapo Ridge was specifically instructed that, when setting up a new facility, to "be sure to enter the correct CCN so that your data can be shared with CMS."⁴⁰

³³ *Id.*

³⁴ Provider's Position Paper at 9.

³⁵ *Id.* at 12.

³⁶ (Last revised April, 2015) (available at <https://www.cdc.gov/nhsn/PDFs/IPFs/IPF-Enrollment-Checklist.pdf>).

³⁷ *Id.* (emphasis added).

³⁸ (Last reviewed March 30, 2015) (available at https://www.cdc.gov/nhsn/faqs/cms/faq_cms_hai.html).

³⁹ *Id.*

⁴⁰ Exhibit P-5.

To be clear, Ramapo Ridge was unable to change their original Facility ID's facility type from a rehabilitation hospital to a psychiatric hospital on their own,⁴¹ and needed assistance from NHSN to begin a new enrollment process.⁴² However, once their new Facility ID was activated, Ramapo Ridge was able to log into NHSN and upload their influenza data into NHSN.⁴³ Despite the comprehensive documentation of their enrollment efforts to effectuate the transmission of this data from NHSN to CMS, there was no evidence that, after the new Facility ID was activated, Ramapo Ridge was unable to (or even attempted to) enter its CCN or CCN Effective Date into NHSN, which was required in order for the requisite Influenza Vaccine data to be successfully transmitted from NHSN to CMS.⁴⁴

The Board therefore concludes that Ramapo Ridge did not submit its Influenza Vaccine Data in the form and manner, and at a time specified by the Secretary. Further, the Board finds that, in accordance with 42 U.S.C. § 1395ww(s)(4)(A)(i) and 42 C.F.R. § 412.424(d)(1)(vi)(A), CMS was correct in reducing their 2017 APU by 2 percentage points.

DECISION AND ORDER:

After considering Medicare law and regulations, arguments presented, and the evidence admitted, the Board finds that the 2 percent reduction to Ramapo Ridge's APU for FY 2017 was proper.

BOARD MEMBERS PARTICIPATING:

Clayton J. Nix, Esq.
 Gregory H. Ziegler, C.P.A., CPC-A
 Robert A. Evarts, Esq.
 Charlotte F. Benson, C.P.A.

FOR THE BOARD:

12/28/2018

X Clayton J. Nix

Clayton J. Nix, Esq.
 Chair
 Signed by: Clayton J. Nix -A

⁴¹ *Id.*

⁴² Exhibits P-6, P-7.

⁴³ Exhibit P-9.

⁴⁴ Mary Anne Keller, the individual who actually accessed the NHSN system and entered the Influenza Vaccine Data after the new Facility ID was activated (*see* Exhibit P-1 at ¶ 21), did not testify at the telephonic hearing (*see* Tr. at 40-41) or submit any testimony through a sworn declaration to reflect that she attempted to and/or was unable to enter or modify the CCN or CCN Effective Date fields. There was no testimony that she, or anyone else, reviewed or attempted to modify the facility's information once the new ID was activated.