PROVIDER REIMBURSEMENT REVIEW BOARD
DECISION

2026-D10

PROVIDER –
MultiCare Good Samaritan Hospital

PROVIDER NO. – 50-0079

vs.

MEDICARE CONTRACTOR –
Noridian Healthcare Solutions, LLC

HEARING HELD –
January 30, 2025

FISCAL YEAR– 2023

CASE NO. – 23-0880

INDEX

ISSUE STATEMENT:

Whether the payment penalty imposed by the Centers for Medicare and Medicaid Services ("CMS") under the Inpatient Rehabilitation Facility Quality Reporting Program ("IRF QRP") to reduce MultiCare Good Samaritan Hospital's ("MultiCare" or "Provider") Inpatient Rehabilitation Facility prospective payment system ("IRF PPS") payment update (i.e., applicable increase factor or "AIF") for federal Fiscal Year ("FFY") 2023 was proper.[1]

DECISION:

After considering Medicare law and regulations, the arguments presented, and the evidence admitted, the Provider Reimbursement Review Board ("Board") finds that CMS properly imposed the FFY 2023 penalty under the IRF QRP, in accordance with 42 C.F.R. § 412.634(f)(3).

INTRODUCTION AND PROCEDURAL HISTORY:

MultiCare is a general short-term acute care hospital, including an acute IRF subprovider, located in Puyallup, Washington.[2] MultiCare Good Samaritan's designated Medicare contractor[3] is Noridian Healthcare Solutions, LLC ("Medicare Contractor" or "MAC").

By letter dated July 12, 2022, CMS notified MultiCare that it had failed to "submit all required months of complete NQF #1717 National Healthcare Safety Network (NHSN) Facility-wide Inpatient Hospital-onset *Clostridium difficile* Infection (CDI) Outcome Measure data."[4] The notice further informed MultiCare that, as a result of this failure, the AIF for FFY 2023 reimbursement would be reduced by two (2)-percentage points.[5] MultiCare requested a reconsideration of CMS' determination.[6]

In a letter dated September 25, 2022, the Medicare Contractor notified MultiCare that CMS had reviewed its request for reconsideration and was "upholding the decision to reduce the annual increase factor for Medicare payments for [FY] 2023."[7]

MultiCare timely appealed CMS' reconsideration decision to the Board and met the jurisdictional requirements for a hearing. The Board conducted a virtual hearing via Zoom on January 30, 2025. MultiCare was represented by Alice Ferguson, System Director Quality

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[1] Medicare Administrative Contractor's ("MAC") Preliminary Position Paper (hereinafter, "MAC's PPP") at 2 (Jan. 19, 2024). *See also*, Hearing Transcript (hereinafter, "Tr.") at 5:11-16 (Jan. 30, 2025).
[2] MAC's PPP at 1.
[3] CMS's payment and audit functions under the Medicare program were historically contracted to organizations known as fiscal intermediaries ("FIs") and these functions are now contracted with organizations known as MACs. The term "Medicare contractor" refers to both FIs and MACs, as appropriate.
[4] Exhibit (hereinafter "Ex.") C-2 at 1.
[5] *Id.*
[6] The Board takes administrative notice that the referenced reconsideration request is not included as an exhibit in the appeal, but can be inferred through Ex. C-1 which states, in pertinent part, "Thank you for requesting a reconsideration of the determination made by [CMS] regarding reduction to this IRF's annual update for failure to meet the requirements of the IRF Quality Reporting Program (QRP)." *See also* Provider's PPP at 2.
[7] Ex. C-1.

Metrics. At the hearing, the Board also received testimony from Ms. Feguson as a witness for MultiCare. The Medicare Contractor was represented by Joseph Bauers Esq., of Federal Specialized Services.

STATEMENT OF RELEVANT FACTS:

CMS reviews all IRF QRP requirements when making AIF decisions.[8] To receive the full AIF for FFY 2023 under the IRF PPS, IRFs such as MultiCare were required to submit data on certain quality measures, including Facility-wide Inpatient Hospital-onset *Clostridium difficile* Infection CDI Outcome Measure data, during calendar year ("CY") 2021 to CMS, using the NHSN system.

As noted above, by letter dated July 12, 2022, CMS notified MultiCare that it did not meet the program requirements for the following reason:

> Did not submit all required months of complete NQF #1717 National Healthcare Safety Network (NHSN) Facility-wide Inpatient Hospital-onset *Clostridium difficile* Infection CDI Outcome Measure data[9]

MultiCare's witness testified that MultiCare experienced no CDI events during May and June 2021.[10]

STATEMENT OF RELEVANT LAW:

A. Burden of Proof and Standard of Review

A Board decision must include findings of fact and conclusions of law that "the provider carried its burden of production of evidence and burden of proof by establishing, by a preponderance of the evidence, that the provider is entitled to relief on the merits of the matter at issue."[11] Additionally, "[a] decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the [Medicare contractor] and such other evidence as may be obtained or received by the Board, and shall be supported by substantial evidence when the record is viewed as a whole."[12] In *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 230 (1938), the U.S. Supreme Court held, "[s]ubstantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[13] Accordingly, in an appeal before the Board, a provider must prove by a preponderance of substantial, relevant evidence that it is entitled to the relief sought. Further, the

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[8] *See generally*, 42 C.F.R. § 412.634.
[9] Ex. C-2 at 1.
[10] Tr. at 21:22-25; *see also* Ex. P-2.
[11] 42 C.F.R. § 405.1871(a)(3).
[12] 42 U.S.C. § 1395oo(d). This statutory provision also confirms that: "[t]he Board shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report (including revisions adverse to the provider of services) even though such matters were not considered by the intermediary in making such final determination." *See also* 42 C.F.R. § 405.1869(a).
[13] *See also Pomona Valley Hosp. Med. Ctr. v. Becerra*, 82 F.4th 1252, 1258-59 (D.C. Cir. 2023).

"Board shall afford great weight to interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice established by CMS."[14]

B. Inpatient Rehabilitation Facility Quality Reporting Program Requirements

Under IRF PPS, the Medicare program pays an IRF predetermined, standardized amounts per discharge, subject to certain payment adjustments.[15] The standardized IRF PPS payment amounts are increased each year by an AIF to account for increases in operating costs.[16]

On March 23, 2010, Section 3004(b)(2) of the Patient Protection and Affordable Care Act ("ACA") amended 42 U.S.C. § 1395ww(j) to establish the IRF QRP, including penalties for noncompliance.[17] As a result, each IRF is required to submit certain quality of care data "in a form and manner, and at a time, specified by the Secretary."[18] Further, 42 U.S.C. § 1395ww(j)(7)(A)(i) specifies that an IRF that fails to report the quality data required under the IRF QRP (i.e., in the form and manner, and at a time specified by the Secretary) is subject to a two (2)-percentage point reduction to its AIF.

Certain items of the quality data required by 42 U.S.C. § 1395ww(j) (including the CDI Outcome measure) are collected through the Centers for Disease Control and Prevention ("CDC") National Healthcare Safety Network ("NHSN") system.[19] IRFs are required to take certain steps to ensure that data entered into the CDC NHSN system is transmitted to CMS by applicable deadlines.[20] The regulation governing IRF QRP data submission is located at 42 C.F.R. § 412.634 and states, in pertinent part:

> (b) *Submission Requirements.*
>
> (1) IRFs must submit to CMS data on measures specified under sections 1886(j)(7)(D), 1899B(c)(1), 1899B(d)(1) of the Act, and standardized patient assessment data required under section 1899B(b)(1) of the Act, as applicable. **Such data must be submitted in the form and manner, and at a time, specified by CMS.**
>
> * * * *
>
> (f) *Data Completion Thresholds*.
>
> (1) IRFs must meet or exceed two separate data completeness thresholds: One threshold set at 95 percent for completion of required quality measures data and standardized patient assessment data collected using the IRF-PAI submitted

[14] 42 C.F.R. § 405.1867.
[15] *See* 42 C.F.R. § 412.624 (2018). *See also* 42 U.S.C. § 1395ww(j). The term "rehabilitation facility" as used in 42 U.S.C. § 1395ww(j) refers to "inpatient hospital services of a rehabilitation hospital or a rehabilitation unit."
[16] *See* 42 U.S.C. § 1395ww(j)(3).
[17] The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 at 369 (2010).
[18] *Id*. at § 3004(b)(2); *see also* 42 U.S.C. § 1395ww(j)(7)(C).
[19] 42 C.F.R. § 412.634(f)(1) (2019).
[20] Exs. C-7 and C-8.

through the CMS designated data submission system; and **a second threshold set at 100 percent for measures data collected and submitted using the CDC NHSN**.

(2) These thresholds (95 percent for completion of required quality measures data and standardized patient assessment data on the IRF-PAI; **100 percent for CDC NHSN data**) will apply to all measures and standardized patient assessment data requirements adopted into the IRF QRP.

(3) **An IRF must meet or exceed both thresholds to avoid receiving a 2 percentage point reduction to their annual payment update for a given fiscal year, beginning with FY 2016 and for all subsequent payment updates**.[21]

C. CMS Guidance

CMS provided various materials as guidance on reporting protocols and requirements for FFY 2023. One such item of guidance was the NHSN Monthly Checklist for IRFQRP, which specifically directs users to select "Report No Events" if none were identified, to resolve any missing events alerts, and to generate and verify datasets before saving a copy of the CDI report.[22] In pertinent part, this checklist states:

STEP 3: Summary Data

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❑ "MDRO and CDI Monthly Denominator – all Locations" form

Freestanding IRF

One summary record for FacWideIN:

- ❑ Total Facility Patient Days
- ❑ Total Facility Admissions
- ❑ Indicate CDI test type (3rd month of each qtr)
  - o March, June, September, December
- ❑ Select "Report No Events" if no CDI LabID events were identified during this month that met the NHSN surveillance definition

CMS-Certified IRF Unit

Summary record for each CMS-Certified IRF unit

- ❑ Total Patient Days
- ❑ Total Admissions
- ❑ Indicate CDI test type (3rd month of each qtr)
  - o March, June, September, December
- ❑ ***Select "Report No Events" if no CDI LabID events were identified during this month that met the NHSN surveillance definition***

[21] 42 C.F.R. § 412.634(b), (f) (2019) (bold emphasis added and italics in original).

[22] Ex. C-5 (NHSN Monthly Checklist for Reporting to CMS IRFQR Program dated September 2021) (bold italics emphasis added), *also available at* https://www.cdc.gov/nhsn/pdfs/cms/IRFs-freestand-Monthly-Checklist-CMS-IQR.pdf (last accessed Feb. 27, 2026).

STEP 4: Resolve Alerts

❑ Incomplete Events
❑ **Missing Events** ***(select "Report No Events" box, if applicable)***
❑ Incomplete Summary Data
❑ Missing Summary Data
❑ Unusual Susceptibility Profile
❑ Confirm CDI Test Type

STEP 5: Generate Datasets

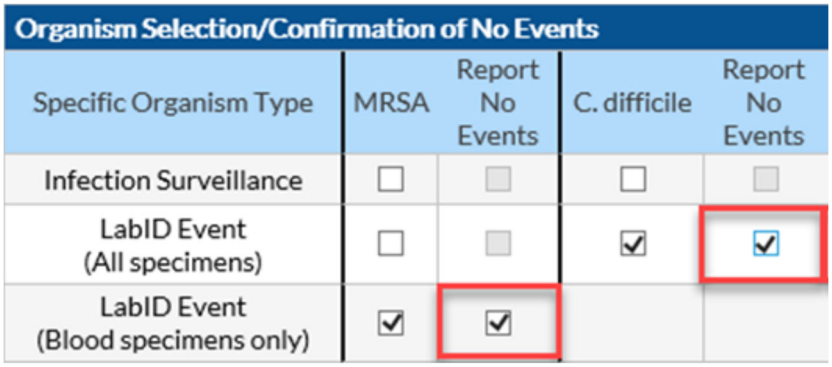
❑ Generate new data sets before verifying data in CMS reports in **STEP 6**

STEP 6: Print/Save Copies of Quarterly CMS Reports

❑ "SIR- CAU Data for IFRQR" ❑ "SIR- CDI LabID Data for IFRQR"

Additionally, the instructions for IRF QRP NHSN Reporting for CDI events state:

> If you have identified and reported LabID events for all organisms in your monthly reporting plan from the CMS IRF unit during the month, you are finished with your reporting for the month. If not, proceed to Step 5 (reporting no events).
>
> **Step 5: Reporting no events for MRSA bacteremia and *C. difficile* LabID events**
>
> - If you have not identified any LabID events in a CMS IRF unit for a particular organism at the end of a month, you must indicate this on the summary data record in order for your data to be sent with CMS.
> - On the MDRO and CDI Module summary data form, checkboxes for "Report No Events" are found underneath the patient day and admission count fields, as seen in the screenshot below.



Organism Selection/Confirmation of No Events				
Specific Organism Type	MRSA	Report No Events	C. difficile	Report No Events
Infection Surveillance	☐	☐	☐	☐
LabID Event (All specimens)	☐	☐	☑	☑
LabID Event (Blood specimens only)	☑	☑		

> - If LabID events have already reported for the specific organism, the "Report No Events" box will be disabled, preventing it from being checked.[23]

[23] Ex. C-6 (How to Set Up NHSN Reporting for MRSA Bacteremia and C. difficile LabID events for the CMS Inpatient Rehabilitation Facility (IRF) Quality Reporting Program IRF Unit within an Acute Care or Critical Access Hospital - dated January 2021) at C0019 – 20, *also available at* https://www.cdc.gov/nhsn/pdfs/cms/irfs/settingup_reporting_labid_event_irf_acutec.pdf (last accessed Feb. 26, 2026) (red-outlined boxes appear in original).

Monthly reporting plans are further explained in Operational Guidance from the CDC:

> Monthly reporting plans must be created or updated in NHSN to include CDI LabID events. For free-standing IRFs, the monthly reporting plans must specify "FacWideIN" CDI LabID event surveillance. For IRF units within a hospital, the monthly reporting plans must specify location-specific surveillance of CDI LabID events for each CMS-certified IRF unit in the hospital. ***CDI LabID event surveillance must be in the monthly reporting plans ("in-plan") in order for data to be shared with CMS***. All NHSN-required data fields for both numerator and denominator data collection must be submitted to NHSN, ***including the "no events" field for any month during which no CDI LabID events were identified.*** Data must be reported to NHSN by means of manual data entry into the NHSN web-based application or via file imports using the Clinical Document Architecture (CDA) file format for numerator and denominator data (resources available at http://www.cdc.gov/nhsn/CDA/index.html).[24]

DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW:

To find in favor of MultiCare (*i.e.*, to find that the two (2) percentage point reduction does not apply), there must be a finding that MultiCare fulfilled its NHSN IRF-QRP quality data requirements by submitting CDI outcome data in the form and manner, and at a time specified by CMS. As previously stated, the quality data required by 42 U.S.C. § 1395ww(j) are collected through the CDC NHSN system for transmission to CMS (form and manner), and CMS notifies providers of the due dates of the reports (time). Each year, information on the form, manner, and time of the required submission of NHSN IRF-QRP data are published by CMS on its website.[25]

In the instant matter, the dispute is over MultiCare's submission of CY 2021 CDI outcome data for all required months pursuant to the IRF QRP. CMS determined that MultiCare did not satisfy the CDI outcome reporting requirements for May and June 2021 because it failed to report "no events" on the relevant summary data record used for such reporting.[26]

As referenced above, if there are no CDI events to report in a given month, CMS guidance directs IRFs to select the "no event" field in the NHSN web-based application.[27] In addition, the NHSN Monthly Checklist for Reporting to the CMS IRFQR Program instructs IRFs to "[s]elect

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[24] Ex. C-8 (Operational Guidance for Inpatient Rehabilitation Facilities to Report *Clostridioides difficile* Infection (CDI) Laboratory-Identified (LabID) Event Data to CDC's NHSN for the Purpose of Fulfilling CMS's Quality Reporting Program Requirements - updated November 2019) at C0027 (emphasis added), *also available at* https://www.cdc.gov/nhsn/pdfs/cms/irfs/IRF-CAUTI-Guidance-508.pdf (last accessed Feb. 26, 2026).
[25] *See, e.g.,* Ex. C-7 (Inpatient Rehabilitation Facility Quality Reporting Program Data Collection & Final Submission Deadlines for the FY 2023 IRF QRP) *also available at* www.cms.gov/files/document/irf-qrp-data-collection-and-final-submission-deadlines-fy-2023-irf-qrp.pdf (last accessed Feb. 26, 2026).
[26] *See* MAC Response to Board Scheduling Order at 2 (Oct. 4, 2024).
[27] *See* discussion *supra* at "CMS Guidance."

'Report No Events'" on the requisite record if no CDI events are identified during the month.[28] The CDC instructions for IRFs setting up NHSN reporting for CDI events also direct IRFs, when entering monthly summary data, to check the "Report No Events" box in the reporting system if there are no events to report.[29] This guidance also includes a screenshot showing when and how the "Report No Events" checkbox appears onscreen in the NHSN web based system.[30] Most important, guidance provides instructions on how to properly document quarterly reports that would demonstrate IRF QRP compliance, if such were questioned.

In its position paper, MultiCare claims that it reported CDI events for the entire CY 2021.[31] MultiCare argues that no payment reduction should be imposed because it met all reporting requirements and submitted CDI outcome data within the required timeframe by "checking the identified "zero cases" box in [the NHSN system] during the data submission process."[32] To support its position that it properly submitted CDI outcome data for May and June 2021 in accordance with NHSN IRF-QRP quality data requirements, MultiCare offered testimonial and documentary evidence (*i.e.*, two exhibits).

First, MultiCare provided a screenshot of an NHSN SIR for CDI LabID report to support its assertion that data submission was completed.[33] The screenshot includes data for summary years 2018 - 2021 showing that the "CDIF Facility Incident HO LabID Event Count" for CY 2021 was zero (0).[34] The document states that it was generated on August 11, 2022, well after the November 15, 2021 reporting deadline.[35] While the report shows that MultiCare's reporting plans indicated that they would be reporting on CDI events ("if (((cdifLabIDPlan = 'Y')))"), the document does not demonstrate that MultiCare timely followed all of the required steps – by checking the "Report No Events" checkbox in the NHSN system to indicate that it had no events for May and June 2021—as required by applicable CMS and CDC guidance. Accordingly, the Board does not find this evidence to support MultiCare's position that data submission was completed by the November 15, 2021 deadline.

Second, MultiCare offered a screenshot of an undated internal tracking report to show it properly submitted CDI outcome data for May and June 2021.[36] The document purportedly shows the dates when MultiCare entered the requisite CDI data into the NHSN system by checking the "Report No Events" checkbox.[37] However, MultiCare's witness was unable to explain how the internal tracking report, which is not submitted through the NHSN system, shows that MultiCare

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[28] Ex. C-5 at C0013.
[29] Ex. C-6 at C0019-20.
[30] See discussion *supra* at "CMS Guidance."
[31] *See* Provider's PPP at 1.
[32] *Id. See also* Tr. at. 7-8, 16, and 18-21.
[33] *See* Provider's PPP at 1.
[34] *Id.*
[35] *See* Provider's PPP at 1. *See also* Ex. C-7 at C0023 (showing final submission deadline of November 15, 2021 for CDI data collected between April 1 and June 30, 2021).
[36] Ex. P-2. During the hearing, the Board took sworn testimony from Provider Representative Alice Ferguson as a witness after she made factual statements ab out the undated internal record report that was entered into the record as Ex. P-2. *See* Tr. at 17-22.
[37] *See* Ex. P-2 ("There were 0 CDI occurrences in the Q2 2021 time period, which requires that we check a "no events" box in the portal by November 15, 2021. This box was checked on 5/25/21, 7/6/2021, and 7/22/2021 for April, May, and June 2021 respectively. See our internal documentation above, highlighted portions.")

checked or selected the "Report No Events" checkbox in the NHSN system and in accordance with applicable CMS and CDC guidance.[38] Moreover, the reliability of the document was undercut by testimony showing that the internal tracking report did not indicate that any data for September 2021 had been properly submitted in the NHSN system.[39] This screenshot was the extent of what MultiCare had to support that the "Report No Events" box was checked.

As neither the documents nor the testimony presented by MultiCare substantiates MultiCare's claim that it accurately reported that no CDI events occurred in May and June 2021 in the NHSN system, the Board finds that MultiCare has failed to meet its burden of production of evidence and burden of proof under 42 C.F.R. § 405.1871(a)(3).

DECISION:

After considering Medicare law and regulations, the arguments presented, and the evidence admitted, the Board finds that CMS properly imposed the FFY 2023 penalty under the IRF QRP, in accordance with 42 C.F.R. § 412.634(f)(3).

BOARD MEMBERS PARTICIPATING:

Kevin D. Smith, CPA
Ratina Kelly, CPA
Nicole E. Musgrave, Esq.
Shakeba DuBose, Esq.

FOR THE BOARD:

3/6/2026

X Kevin D. Smith, CPA

Kevin D. Smith, CPA
Board Chair
Signed by: Kevin D. Smith -A

[38] Tr. at 25-26.
[39] *Id. See also* Ex. P-2.