PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

ON THE RECORD
2026-D25

PROVIDER –
Broward Health North

PROVIDER NUMBER: –
10-0086

vs.

MEDICARE CONTRACTOR –
First Coast Service Options, Inc.

RECORD HEARING DATE –
August 11, 2025

FEDERAL FISCAL YEAR –
2024

CASE NUMBER –
24-0153

INDEX

ISSUE STATEMENT:

Whether the Provider met all of the Hospital Inpatient Quality Reporting Program ("IQRP") requirements for the Federal Fiscal Year ("FFY") 2024 Annual Payment Update ("APU").[1]

DECISION:

After considering the Medicare law, regulations and program instructions, the arguments presented, and the evidence submitted, the Provider Reimbursement Review Board ("Board") finds CMS' decision to reduce Broward Health North's APU for FFY 2024 was proper.

INTRODUCTION:

Broward Health North ("Broward" or "Provider") is a Medicare participating acute care hospital located in Pompano Beach, Florida.[2] Broward's Medicare administrative contractor[3] is First Coast Service Options, Inc ("Medicare Contractor").[4]

On March 9, 2023, CMS notified Broward that it had not met the Hospital IQR Program requirements for FFY 2024 due to Broward's non-compliance with the requirement to submit COVID-19 Vaccination Coverage Among Health Care Personnel ("HCP") data for Quarter 3 of Calendar Year ("CY") 2022.[5] Consequently, Broward's FFY 2024 APU would be reduced by one fourth.[6] CMS also barred Broward from participating in the Hospital Value Based Purchasing ("VBP") Program for FFY 2024.[7] Subsequently, Broward submitted a request for reconsideration. On May 12, 2023, CMS upheld its initial finding and informed Broward of its decision.[8]

On November 8, 2023, Broward timely appealed CMS' determination to the Board and met the jurisdictional requirements for a hearing before the Board. On July 9, 2025, the parties filed a Stipulation of Undisputed Facts. The Board approved the appeal for a record hearing on August 11, 2025.

Broward was represented by Sarah M. Crosby, Esq. of Hall, Render, Killian, Heath, & Lyman, P.C. The Medicare Contractor was represented by Robert A. Evarts, Esq. of Federal Specialized Services.

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[1] Stipulation of Undisputed Facts ("Stip.") at ¶ 3 (June 30, 2025).
[2] *Id*. at ¶ 1. *See also* Medicare Contractor's Final Position Paper ("Medicare Contractor's FPP") at 3 (Apr. 11, 2025).
[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 to organizations knows as Medicare administrative contractors ("MACs"). The relevant law may refer to FIs and MACs interchangeably, and the Board will use the term "Medicare contractor" to refer to both FIs and MACs, as appropriate and relevant.
[4] Stip. at ¶ 2.
[5] *See* Exhibit ("Ex.") P-5 (CMS Hospital Inpatient Quality Reporting Program Phase 1 Annual Payment Update Notification Letter) at 000047 (March 9, 2023).
[6] *See also* 42 C.F.R. § 412.64(d)(2)(i)(C) (2021).
[7] See Ex. P-5 at 000046.
[8] *See* Ex. P-1 (Notice of Quality Reporting Program Noncompliance Decision Upheld) (May 12, 2023).

STATEMENT OF RELEVANT FACTS:

In the FY 2022 IPPS Final Rule,[9] CMS finalized the COVID-19 Vaccination Coverage Among Healthcare Personnel (HCP) measure, which assesses the proportion of a hospital's health care workforce that has been vaccinated against COVID-19, beginning with the FY 2023 program year, and continuing into subsequent years.[10] To receive the full APU payment in FFY 2024 , quarterly reporting and data submission for COVID-19 Vaccination Coverage Among Health Care Personnel during Calendar Year ("CY") 2022 by specific deadlines was mandatory.[11] Hospitals were required to "collect the numerator and denominator for the COVID-19 HCP vaccination measure for at least one self-selected week during each month of the reporting quarter and submit the data to the [National Health Safety Network ("NHSN")] Healthcare Personal Safety (HPS) Component before the quarterly deadline to meet Hospital IQR Program requirements."[12] The reporting for Q3 2022 (covering July – September 2022) was due February 15, 2023.[13]

Hospitals were required to "report the number of HCP eligible to have worked at the facility during the self-selected week that the hospital reports data for in NHSN (denominator) and the number of those HCP who have received a **complete** course of a COVID-19 vaccination (numerator) during the same self-selected week."[14]

Each quarter, the Centers for Disease Control and Prevention ("CDC") calculates "a single quarterly COVID-19 HCP vaccination coverage rate for each hospital, which will be calculated by taking the average of the data from the three weekly rates submitted by the hospital for that quarter."[15] If more than one week of data is submitted for the month, for measure calculation purposes, the most recent week of the month is used.[16] The hospital meets Hospital IQR Program submission requirements if they collect the data for at least one self-selected week during each month of the quarter and submit it to NHSN before the quarterly deadline.[17]

Effective June 27, 2022, the CDC changed the definition of a fully vaccinated health care worker to include booster doses of the COVID-19 vaccine.[18] Henceforth, a complete course of COVID-19 vaccination would include a primary vaccine series (defined as "a 2-dose series of an mRNA COVID-19 vaccine (Pfizer, BioNTech and Moderna) or a single dose of Janssen COVID-19 vaccine,"[19] and a booster dose (defined as a subsequent dose of vaccine administered "to enhance or restore protection which might have subsided over time" [after primary series vaccination]).[20]

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[9] 86 Fed. Reg. 44774 (Aug. 13, 2021).
[10] *Id.* at 45428-34.
[11] *See* Ex. C-6 (Fiscal Year 2024 Hospital Inpatient Quality Reporting Program Guide Fiscal Year 2024 Payment Determination/Calendar Year 2022 Reporting Period) at C-0048.
[12] 86 Fed. Reg. at 45422-23.
[13] *See* Ex. C-5.
[14] 86 Fed. Reg. at 45377 (bold emphasis added).
[15] *Id.*
[16] *Id.*
[17] *Id*.
[18] *See generally* Ex. P-9 (CDC's Up to Date Vaccination Status: Surveillance Definition Change (June 2022)).
[19] *Id*. at 000085.
[20] *Id* at 000086.

Broward asserts that it submitted its July 2022 COVID-19 vaccination coverage for healthcare personnel data through the NHSN portal on August 10, 2022.[21] On February 17, 2023, Broward discovered that the July 2022 COVID-19 vaccination data that was uploaded on August 10, 2022, was incomplete as it did not take into account the updated definition of a fully vaccinated health care worker.[22] After discovering this error, the corrected data was uploaded through the NHSN portal on February 27, 2023.[23]

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."[24] Additionally, "[a] decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the intermediary 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."[25] In *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (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."[26] 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.

B. CMS Hospital Inpatient Quality Reporting Program

The Medicare program pays acute care hospitals[27] for inpatient services under the Inpatient Prospective Payment System ("IPPS").[28] Under the IPPS, the Medicare program pays hospitals predetermined, standardized amounts per discharge, subject to certain payment adjustments.[29] Hospitals receive an annual percentage increase in the standardized amount, known as the "market basket percentage increase," or APU, to account for increases in operating costs.[30]

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[21] *See* Stip. at ¶ 16.
[22] *See* Stip. at ¶¶ 15, 17.
[23] *See* Stip. at ¶ 17.
[24] 42 C.F.R. § 405.1871(a)(3) (as of Oct. 1, 2020).
[25] 42 U.S.C. § 1395oo(d). This statutory provision also confirms: "[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).
[26] *See also Pomona Valley Hosp. Med. Ctr. v. Becerra*, 82 F.4th 1252, 1258-59 (D.C. Cir. 2023).
[27] Acute care hospitals that are paid under the Inpatient Prospective System do not include children's hospitals, inpatient psychiatric hospitals, rehabilitation hospitals, long-term care hospitals, or hospitals which have an average length of stay of greater than 25 days. 42 U.S.C. § 1395ww(d)(1)(B).
[28] 42 U.S.C. § 1395ww(d); 42 C.F.R. Part 412. IPPS hospitals are often referred to as "subsection (d) hospitals."
[29] *See* 42 C.F.R. Part 412.
[30] 42 U.S.C. § 1395ww(b)(3).

The Hospital Inpatient Quality Reporting ("IQR") program requires every hospital to submit quality of care data "in a **form and manner, and at a time,** specified by the Secretary."[31] Each year, information on the form and manner and time are published by CMS.[32] The IQR Program allows CMS to pay a higher APU to hospitals that successfully report designated quality measures.[33]

A hospital that fails to report the required quality data under the IQR program is penalized by reducing the hospital's IPPS market basket percentage increase for the relevant year by one-fourth.[34]

C. Submission Requirements

As noted above, CMS provides various materials as guidance on reporting protocols and requirements. The Fiscal Year 2024 Hospital Inpatient Quality Reporting Program Guide ("Hospital IQR Program Guide")[35] addresses the particular requirements for reporting data for the calendar year 2022. The *form* and *manner* in which a hospital must submit the COVID-19 Vaccination Coverage Among Health Care Personnel data is through the Centers for Disease Control and Prevention ("CDC") National Healthcare Safety Network ("NHSN").[36] Hospitals must enroll in NHSN in order to submit public health registry data to the CDC.[37] The CDC then transmits this public health registry data to CMS immediately following each submission deadline.

The Hospital IQR Program Guide also contained the following relevant passages:

> **Important Information About Submission Deadlines**
>
> CMS typically allows four-and-a-half months for hospitals to add new data and submit, resubmit, change, and delete existing data up until the submission deadline. Data should be submitted well before the deadline to allow time to review them for accuracy and make necessary corrections.
>
> ***

[31] 42 U.S.C. § 1395ww(b)(3)(B)(viii)(II) (emphasis added). Section 501(b) of the Medicare Prescription Drug, Improvement, and Modernization Act ("MMA") of 2003 amended 42 U.S.C. § 1395ww(b)(3)(B) to establish the Hospital Inpatient Quality Reporting ("IQR") Program. Pub. L. No. 108-173, 117 Stat. 2066, 2289 (2003).
[32] *See e.g.* Ex. C-6.
[33] "Hospital Inpatient Quality Reporting Program", available at https:www.cms.gov/medicare/quality/initiatives/hospital-quality-initiative/inpatient-reporting-program (last updated June 3, 2025) (last accessed Aug. 19, 2026).
[34] 42 C.F.R. § 412.64(d)(2)(i)(C) (Oct. 1, 2022). The Hospital IQR program was expanded by section 5001(a) of the Deficit Reduction Act of 2005 so that hospitals failing to report the required quality data under the IQR program are penalized by reducing the hospital's IPPS market basket percentage increase for the relevant year. *See* Pub. L. 109-171, § 5001(a), 120 Stat. 4, 28 (2006) *revising* 42 U.S.C. § 1395ww(b)(3)(B)(viii)(I).
[35] *See* Ex. C-6.
[36] *Id.* at C-0049.
[37] *Id.* at C-0050. *See also* https://www.cdc.gov/nhsn/acute-care-hospital/enroll.html ("5-Step Enrollment for Acute Care Hospitals/Facilities") (last accessed Aug. 19, 2026).

> **Influenza Vaccination Coverage Among Healthcare Personnel (HCP) and COVID-19 Vaccination Coverage Among Healthcare Personnel (HCP):** Data can be modified in NHSN at any time. However, data that are modified in NHSN after the quarterly submission deadline are not sent to CMS and will not be publicly reported.[38]

DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW:

To find in favor of Broward (*i.e.,* to find that the one-fourth APU reduction does *not* apply), the Board must find that Broward submitted the Hospital IQR program quality data in the "*form and manner, and at a time, specified by the Secretary.*"[39] As established above, the quality data must be submitted through the NHSN portal (form and manner), and on a quarterly basis on or before the quarterly deadlines (time). Each year, information on the form and manner and time are published by CMS.

As discussed above, one of the quality reporting requirements included the submission of COVID-19 HCP data for CY 2022 Q3 by February 15, 2023. Broward admits that the COVID-19 vaccination data that it uploaded to the NHSN portal on August 10, 2022 for July 2022 was incomplete as it "did not take into account the updated definition of 'up to date with COVID-19 vaccines'" that was effective June 27, 2022.[40] Broward states that it discovered its error on February 17, 2023, after a review of the NHSN portal.[41] Broward further states that it "immediately took steps to correct the issue and uploaded the corrected data through the NHSN portal on February 27, 2023."[42] Notably, both the discovery of the error and the correction took place after the February 15, 2023 deadline for the CY 2022 Q3 vaccine data.

Broward faults CMS for failing to communicate data submission inaccuracies to Broward, which would have allowed Broward to timely cure any issues in their COVID-19 Vaccination Coverage Among HCP data.[43] Broward points to a section in the CDC's "COVID-19 Vaccination Quick Reference Guides in Response to Quarterly Combined Data Quality Checks," dated February 2023, that states: "The NHSN team conducts outreach to facilities that ***have not reported any data*** for any surveillance week during a reporting month."[44]

The Medicare Contractor argues that Broward "has not supplied any documentation from the NHSN system that demonstrates that the CY 2022 Q3 HCP COVID-19 Vaccination data was submitted to CMS, through NHSN, by the February 15, 2023 due date."[45] The MAC asserts that "[i]t is not clear from the Provider's position paper if the data originally submitted was inaccurate or incomplete. [Broward] has not brought forth any documentation that it submitted the missing data, inaccurately or at all, prior to the due date."[46]

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[38] *Id.* at C-0048.
[39] 42 U.S.C. § 1395ww(b)(3)(B)(viii)(II).
[40] Provider's Final Position Paper ("Provider's FPP") at 6-7 (March 14, 2025).
[41] *Id.* at 7.
[42] *Id.*
[43] *See* Stip. ¶¶ 24–25.
[44] *Id*. at ¶ 24 (citing Ex. P-4 at 000032) (emphasis added).
[45] Medicare Contractor's FPP at 5.
[46] *Id.*

With respect to Broward's argument that CMS failed to communicate data submission inaccuracies, the Medicare Contractor notes that "[i]t is not clear how NHSN or CMS would have known [Broward's] data was inaccurate. . . .There is no indication that the system was designed with such a function."[47] The Medicare Contractor points to Broward's admission that its efforts to correct the data were after the due date, and notes that "CMS notifies Providers that 'data that are modified in NHSN after the submission deadline are not sent to CMS and will not be publicly reported.'"[48]

The Board notes that it issued a Request for Information ("RFI") to the Parties on July 31, 2025, to bolster the record in the case. The Board noted that:

> [b]oth Stipulations #16 and #23 in the Parties' Joint Stipulation of Facts state that the Provider uploaded July 2022 COVID-19 vaccination data to the NHSN portal on August 10, 2022. Stipulation #17 states that the Provider submitted "corrected" data via NHSN on February 27, 2023 and references Provider's Exhibit P-11.[49]

The Board asked the Provider to "document the COVID-19 vaccination data that the Provider submitted on August 10, 2022, and provide a comparison between such data and the "corrected" data that was submitted on February 27, 2023."[50]

In response to the Board's RFI, filed on August 8, 2025, the Provider submitted Exhibits P-12 and P-13. The Provider described Exhibit P-12 as follows:

> Exhibit P-12 contains the COVID-19 Vaccination Among Health Care Personnel data for all of Broward Health for July 2022. This document is an attachment in Provider's e-mails found at Exhibit P-7, p.2. The attachment was titled "14b_track-hcp-covidvax July_2022." Broward Health North's COVID-19 vaccination among healthcare personnel data is one tab of the Excel spreadsheet and can be viewed in PDF format in Exhibit P-13 for ease of reference.[51]

The Board notes that this response does not address Exhibit P-11 at all. The Board's review of the internal email communications on August 10, 2022,[52] along with the Excel spreadsheet marked as Provider's Exhibit 12 reveals a plausible explanation for Broward's failure to meet the Hospital IQRP reporting requirements for its July 2022 as part of its Q3 2022 Covid-19 HCP vaccination data submission. On August 10, 2022 at 1:54pm, the Vice President of Clinical Quality and Risk Management ("VP CQRM") provided Broward staff with a breakdown of the Covid-19 vaccination data for July 2022.[53] At 3:36pm, a Broward staff member, one of the recipients of the 1:45pm email, responded:

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[47] *Id.* at 8.
[48] *Id.*
[49] Board's Request for Information at 2 (July 31, 2025).
[50] *Id.*
[51] Provider's Response to Board's Request for Information at 1 (Aug. 8, 2025).
[52] Ex. P-7 at 000054-56.
[53] *Id.* at 000054. Note that the email in the record does not include an "Attachment" line identifying a specific attachment to the email at 1:54pm.

> Please see below for screen shots of the data that we need for COVID vaccine NHSN. The numbers do not match up. ***The total number of employees for the answers for #2 and #3, must equal to the total number of employees in #1. NHSN will not accept the data unless all numbers for every section matches.***
>
> As it stands now the data for BHCS is not correct. Please call me if you have any questions.[54]

At 4:06pm, the VP CQRM replied, "Adjusted numbers fixing the employee counts" and attached a document entitled "track-hcp-covidvax July.xlsx" which is a Microsoft Excel spreadsheet.[55] Here, it is imperative to note that the attachment to the email dated and timestamped August 10, 2022 at 4:06pm, entitled "track-hcp-covidvax July.xlsx," does not have the same title as that of Provider's Ex. P-12, which is entitled "14b_track-hcp-covidvax July_2022" because it does not include "14b_" or "July_2022" in the title. Thus, it is not the same document referenced at 4:06pm on August 10, 2022. Exhibit P-13 ***may*** be the original document purportedly sent by the VP CQRM at 1:54pm as the "Last Modified" date in that file is August 10, 2022 at 1:46pm,[56] which is just prior to the 1:54pm email. Nonetheless, the Provider represents that this is the data submitted on August 10, 2022 and the Board accepts it as such.

In its comparison of the documents, the Board notes the following differences between Exhibit P-12 (excel spreadsheet of original August 10, 2022 data) and Exhibit P-11 (February 27, 2023 "corrected" data submission):

- The data collection week has changed from 7/24/2022 – 7/31/2022 to 7/25/2022 – 7/31/2022
- In the "corrected" data submission (Ex. P-11), the counts on line 1 "Number of HCP that were eligible to have worked at this healthcare facility for at least 1 day during the week of data collection" have increased as noted for "All Core HCP" (3), "All HCP" (3), "Employees (staff on facility payroll) (2)" and "Licensed independent practitioners: Physicians, advanced practice nurses, and physician assistants" (1)
- In the corrected data submission, the counts on line 4 "Cumulative number of HCP with complete primary series vaccine in question #2 [Cumulative number of HCP in Question #1 who have received primary series COVID-19 vaccine(s) at this facility or elsewhere since December 2020] who have received any booster(s) or additional dose(s) of COVID-19 vaccine since August 2021" have increased by the same amounts

Additionally of note, the Board finds that the counts on line 5 "Cumulative number of HCP in Question #2 who are up to date with COVID-19 vaccines" ***did not change*** from the original submission (Ex. P-12) to the "corrected" submission (Ex. P-11). This clearly contradicts Broward's argument that its original data submission on August 10, 2022 did not take into account the CDC's updated definition of fully vaccinated "to include booster doses of the COVID-19 vaccine," as no changes were made in this data in the "corrected" data submission.

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[54] *Id.* at 000055 (Bold and italics emphasis added).
[55] *Id.*
[56] *See* Ex. P-13 at 000129.

Further, the changes in the data do not prove that it was "incomplete," as Broward alleges. It could simply have been "incorrect" for any number of reasons.

Broward's "corrected" data was submitted after the February 15, 2023 data submission deadline for Q3 2022, as clearly evidenced by the "Date Created: 02/27/2023 9:03pm" stamp.[57] Further, this same data is noted as "Date Last Modified: 03/24/2023 7:02pm."[58] Any data submitted on either of these dates was after the submission deadline of February 15, 2023, and would not be transmitted to CMS. The Board further notes that Exhibit P-11 (the "corrected" data) is the only actual NHSN screen shot included in the record as Exhibits P-12 and P-13 are Broward's Excel spreadsheet and a pdf version of a worksheet containing the same data. Neither is evidence of the data being reported in NHSN on August 10, 2022, or at any time prior to the deadline.

With regard to Broward's argument that NHSN failed to notify them that there were issues with the data submitted on August 10, 2022, Broward misses the point that the COVID-19 Vaccination Quick Reference Guides in Response to Quarterly Combined Data Quality Checks" specifically states that "The NHSN team conducts outreach to facilities that ***have not reported any data*** for any surveillance week during a reporting month."[59] That is, NHSN sends monthly Data Quality emails stating that as of the date of the outreach, the facility has not submitted any data for reporting weeks in a particular month and requests that the facility "Please review and report data for one or more weeks" of that month.[60] The reference guide does not indicate that NHSN will check the accuracy of each response to the questions in the module. Moreover, one of Broward's own staff members informed at least ten (10) other Broward employees that the cumulative numbers for Questions 2 and 3 had to total the number of employees entered for each HCP category in Question 1.[61] Yet, despite indicating that the employee counts had been fixed on August 10, 2022, before the NHSN submission,[62] the evidence provided to the Board does not prove that any data, correct or incorrect, was in the NHSN system prior to the deadline.

Finally, Broward argues that the change in definition for a "completed vaccination course" should have been subject to notice and comment rulemaking under 42 U.S.C. 1395hh(a)(2) as it was a substantive change impacting reimbursement.[63] However, the Board notes that the measure was proposed in the 2022 IPPS/LTCH Proposed Rule.[64] In that Proposed Rule, CMS stated:

> Hospitals would report the number of HCP eligible to have worked at the facility during the self-selected week that the hospital reports data for in NHSN (denominator) and the number of those HCP who have received a complete course of a COVID-19 vaccination (numerator) during the same self-selected week.

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[57] Ex. P-11 at 000119.
[58] *Id.*
[59] Ex. P-4 at 000032.
[60] *See id.* at 000031.
[61] *See* Ex. P-7 at 000055.
[62] *See id*.
[63] *See* Provider's FPP at 10-14.
[64] 86 Fed. Reg. 25070, 25572-25575 (May 10, 2021).

> We invite public comment on our proposal to add a new measure, COVID-19 Vaccination Coverage Among HCP, to the Hospital IQR Program.[65]

Thus, the addition of the measure ***was*** subject to notice and comment at that time. Regarding the same measure for the Long-Term Care Hospital ("LTCH") Quality Reporting in the 2022 IPPS/LTCH Proposed Rule, comments were made, and addressed, in the 2022 IPPS/LTCH Final Rule, as follows:

> Comment: Several commenters requested CMS provide clarification about how evolving vaccine recommendations will be accounted for in the COVID–19 Vaccination among HCP measure proposed for the LTCH QRP. ***A commenter noted that CMS proposed a COVID–19 Vaccination Coverage among HCP measure for the Inpatient Quality Reporting (IQR) program in the FY 2022 Inpatient Prospective Payment System (IPPS)/ LTCH proposed rule (86 FR 25573)*** and stated the numerator would be calculated based on HCP who received a completed vaccination course 'since the vaccine was first available or on a repeated interval if revaccination is recommended.' They requested CMS provide clarification how evolving vaccine recommendations will be accounted for in the COVID–19 Vaccination among HCP measure proposed for the LTCH QRP. Several commenters specifically questioned how vaccination boosters would factor into reporting requirements. Several commenters believe it would be premature for CMS to adopt the measure because it is unknown how long the COVID–19 vaccination would be effective as well as whether and how often booster shots may be required. Commenters noted that these were important unanswered questions they thought would affect both the design and feasibility of any HCP vaccination measure ***and would likely result in a change to the measure definition.*** Several commenters suggested CMS wait until expectations are clarified about maintaining employees' COVID–19 vaccinations.
>
> Response: The COVID–19 Vaccination Coverage among HCP measure is a measure of a completed vaccination course ***(as defined in Section IX.E.4.a(5) of the FY 2022 IPPS/LTCH PPS proposed rule (86 FR 25070))***. A complete vaccination course may require one or more doses depending on the specific vaccine used. Currently, the need for COVID–19 booster doses has not been established, and no additional doses are currently recommended for HCP. ***However, we believe that the numerator is sufficiently broad to include potential future boosters as part of a 'complete vaccination course' and therefore the measure is sufficiently specified to address boosters***.[66]

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[65] *Id.* at 25574-25575.
[66] 86 Fed. Reg. at 45444 (emphasis added).

While the comments addressed the specific impact of changes to the measure definition on LTCH QRP requirements, they acknowledged that the measure was also proposed for the Inpatient QRP in the same Proposed Rule. The Secretary's response specifically referenced the definition of a completed vaccination course, which is applicable to both the Inpatient QRP and the LTCH QRP, and explained that the definition encompassed future boosters. Thus, Broward's notice and comment argument fails. Moreover, as stated above, the Board has no evidence of what was actually submitted in NHSN on August 10, 2022. Accordingly, the change in definition has not been proven to have negatively impacted Broward's August 10, 2022 submission.

Based on the foregoing, the Board finds that Broward failed to submit the COVID-19 Vaccination Coverage Among Health Care Personnel ("HCP") data for Q3 2022 in compliance with the requirements for the FY 2024 Hospital IQRP in the form and manner, and at the time, specified by CMS.

DECISION:

After considering the Medicare law, regulations and program instructions, the arguments presented and the evidence submitted, the Board finds CMS' decision to reduce Broward Health North's APU for FFY 2024 by one-fourth was proper.

BOARD MEMBERS PARTICIPATING:

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

FOR THE BOARD:

8/25/2026

X Kevin D. Smith, CPA

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