HOOPER LUNDY BOOKMAN

CMS Broadens Medicare Outlier Reconciliation Criteria to Claw Back More Payments

Insights 05.07.24

PROFESSIONAL

SVEN C. COLLINS
Partner
Denver
Washington, D.C.

CMS recently issued Transmittal 12558 with Change Request (CR) 13566 directing Medicare Administrative Contractors (MACs) to apply new criteria to reconcile Medicare IPPS and LTCH PPS outlier payments. As CR 13566 explains, "under existing regulations … outlier payments may be reconciled upon cost report settlement to account for differences between the Cost-to-Charge Ratio (CCR) used to pay the claim at its original submission by the provider and the CCR determined at final settlement of the cost reporting period during which the discharge occurred." This change—the first in 20 years!—broadens the criteria by making reconciliation more sensitive to fluctuations in a hospital's CCR and is expected to increase the agency's recoupment of outlier payments.

For cost reporting periods starting on or after October 1, 2024, reconciliation will now be triggered if either the old or the new criteria apply:

- Old criteria: 10 percentage point change in CCR + $500K in outlier payments
- New criteria: 20 percent change in CCR + $500K in outlier payments; New hospitals—all outlier payments for first year are reconciled

CMS expects that adding the trigger of a 20% change in a hospital's CCR (between payment and cost-report settlement) will lead MACs to "identify more cost reports to refer to CMS for outlier reconciliation approval." FY 2025 IPPS Proposed Rule, 89 Fed. Reg 35,934, 36,567 (May 2, 2024). This is because, when CCRs are below 0.5, it takes more than a 20% decrease to equal a 10 percentage point change (e.g., if a CCR is 0.45 it will have to decrease by 22% to drop to percentage points to 0.35; and when CCRs are very low (*i.e.*, under 0.1), for a 10 percentage point change, "the hospital's operating CCR would have to be a negative number, which is not possible …." *Id.* As noted, CMS will reconcile all outlier payments for new hospitals in their first cost-reporting period, regardless of how much their CCRs fluctuate, after which the general criteria will apply.

If the reconciliation criteria apply, CMS redetermines outlier payments, applying the CCR calculated at cost-report settlement, and it either recoups any overpayments or pays any underpayments, depending on whether the CCR increased or decreased, plus interest.

CMS's expanded reconciliation criteria do not necessitate any changes in day-to-day operations, but hospitals simply should be cognizant of the increased possibility of reconciliation when their CCRs fluctuate

significantly. If your organization receives a reconciliation notice for a material sum, please contact Sven Collins in Denver, Bob Roth or Kelly Carroll in Washington, DC, or any member of the HLB team and we can help you assess your appeal options.

RELATED CAPABILITIES

Medicare, Medicaid, Other Governmental Reimbursement and Payment

Hospitals and Health Systems