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CMS Hikes Payment for COVID-19 Inpatients Treated With New Drugs, Links it to 20% Bonus

By Nina Youngstrom

CMS said Oct. 28 that Medicare will pay hospitals extra when they treat inpatients with drugs or biologicals approved by the Food and Drug Administration (FDA) for COVID-19. The additional payments are linked to the 20% bonus hospitals already receive for COVID-19 MS-DRGs, and both require proof of a positive COVID-19 test, according to the fourth interim final rule with comment period (IFC).[1] CMS also raised the specter of post-payment reviews.

Hospitals will receive an additional payment when treatment includes Veklury (remdesivir) or COVID-19 convalescent plasma to treat patients diagnosed with COVID-19. Like a new technology add-on payment, the cost of the drug won't be entirely folded into the MS-DRG.

The only hitch is hospitals must ensure they make a connection to the Medicare bonus for COVID-19 inpatients, said attorney Daniel Hettich, with King & Spalding in Washington, D.C. "You have to be eligible for the 20% add-on to get the new therapeutic add-on," he said. "If you don't have a positive test, you don't qualify for the new treatment add-on payment."

The interim final rule, which implements section 3713 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, also said Medicare, Medicare Advantage (MA) and commercial payers must offer FDA-approved vaccines free to patients. Medicare and MA will pay hospitals, physicians, pharmacists and others a fee for the administration of the vaccine and a fee for the vaccine itself. A provision in the Affordable Care Act that requires coverage of preventive care without cost sharing provided a "pathway" to sweep in private payers, said Valerie Rinkle, president of Valorize Consulting. CMS also revised the Comprehensive Care for Joint Replacement model because of the public health emergency (PHE).

CMS Creates 'New Treatments Add-On Payment'

The ball for the newest add-on payments got rolling with the advent of coronavirus therapies. As the regulation explains, the FDA created a program for possible coronavirus therapies called the Coronavirus Treatment Acceleration Program, which includes issuing emergency use authorizations (EUAs) during the PHE. The FDA has issued EUAs for five drugs and biologicals for COVID-19, although only remdesivir and COVID-19 convalescent plasma are eligible for the add-on payment in connection with the inpatient prospective payment system (IPPS).

"We believe that as drugs or biological products become available and are authorized or approved by FDA for the treatment of COVID-19 in the inpatient setting, it would be appropriate to increase the current IPPS payment amounts to mitigate any potential financial disincentives for hospitals to provide these new treatments during the PHE," CMS stated in the rule. "Therefore, effective for discharges occurring on or after the effective date of this rule and until the end of the public health emergency, CMS is using the exceptions and adjustment authority under section 1886(d)(5)(I) of the Act to create a New COVID–19 Treatments Add-on Payment (NCTAP) under the

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IPPS for COVID-19 cases that meet certain criteria."

First, the treatment of the patient has to include the use of a drug or biological authorized to treat COVID-19 by the FDA (with certain technical specifications). Second, the case must qualify for the 20% Medicare add-on bonus. "The primary purposes of this criterion are to help appropriately identify COVID-19 cases to potentially receive the NCTAP, and ensure for program integrity reasons that there is a positive COVID-19 laboratory test documented in the patient's medical record," the rule states. "CMS may conduct post-payment medical review to confirm the presence of a positive COVID-19 laboratory test and, if no such test is contained in the medical record, the NCTAP will be recouped."

The amount of the NCTAP payment will be the lesser of: (1) 65% of the outlier threshold for the claim or (2) 65% of the amount "by which the costs of the case exceed the standard DRG payment," including the 20% Medicare bonus for inpatients with COVID-19.

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