

Centers for Medicare & Medicaid Services
Skilled Nursing Facilities/Long Term Care Open Door Forum
Moderator: Jill Darling
August 6, 2020
2:00 pm ET

Coordinator: Welcome. Thank you for standing by. Today's conference call will now begin. All lines have been placed on a listen-only mode until the question-and-answer session. At that time if you would like to ask a question you would press star 1 and record your first and last name when prompted. If you need to withdraw your message -- I'm sorry, your question -- you would press star 2. Today's call is also being recorded. If there are any objections, please disconnect. I will now turn the call over to Jill Darling. Thank you. You may begin.

Jill Darling: Great. Thank you (Shinita). Good morning and good afternoon everyone. Welcome to the SNF/LTC Open Door Forum. I know it's been quite some time but we're glad to have you. Before we get into today's agenda one brief announcement from me. This open door forum is open to everyone but if you are a member of the press you may listen in but please refrain from asking questions during the Q&A portion of the call. If you do have any inquiries please contact CMS at press@cms.hhs.gov .gov.

One thing is since we are all working remote during the Q&A if you do have a question and you may hear some silence. Don't be alarmed. There might be, you know, in case someone has to send a quick email to someone for, you know, questions or anything like that. So don't be alarmed. And if your answer - if you don't get an answer, please feel free to send in your question into the SNF mailbox -- the ODF mailbox which is listed on the agenda. So I

will hand it off to our Chair, Todd Smith.

Todd Smith: Thanks, Jill. Good afternoon everyone. And good morning to those of you on the West Coast. My name is Todd Smith. I am the Director of the Division of Institutional Post-Acute Care and we - one of our main priorities is to develop and implement the skilled nursing facility prospective payment system. And in just a couple of minutes, John Kane will go over some of the provisions in that rule.

And I just wanted to take a moment to thank everyone in the nursing home community, those on the front lines. I know this has been an unprecedented time in the history of health care. And I want everyone to know the agency, we are working very hard to acclimate our policies to adhere to some of the requests we received from members and stakeholders in the nursing home community as well as the public. And I know I speak for everyone in just saying thank you to all of you out there working in this really challenging time in really what is the history of our health care system.

So with that, I will stop and I will hand it over to John Kane who will go over some of our recent policy final policies that were recently issued under the FY 2021 Skilled Nursing Facility Prospective Payment System Final Rule. So, John, I'll turn it over to you.

John Kane: Thanks very much, Todd. And let me just echo Todd's comments. I'm not going to repeat them and I certainly couldn't say them better than he did. But just thank you to everyone out in the nursing home community for all the work that you guys are doing right now. So I'm going to speak about the FY 2021 SNF PPS final rule that was just issued on July 31st. I'll be speaking with regard to the payment aspects of that rule. And I'll turn it over to a

colleague to speak about some other provisions within the rule.

So as I said on July 31st we had issued a final rule which was CMS 1737-F which is the FY 2021 SNF PPS final rule. This rule included a number of different provisions in relation to the SNF PPS. And the ones that I'll be speaking about are the technical rate-setting updates as well as a few other policy provisions that we've included in the final bill.

So first of all to kind of get the main thing out of the way is that each year we update our payment rates through the market basket adjustment that is adjusted for productivity. This year we finalized an adjustment of 2.2%. That is a target of 2.2% for fiscal year 2021. That is a result of a market basket of 2.2% that was adjusted by a zero point zero percentage point productivity adjustment. And we estimate that that will lead to an increase in SNF payments of approximately \$750 million going into 2021.

Along that same line in this final rule we also adopted revised statistical area delineations that are provided by the Office of Management and Budget. These are delineations that are used to identify providers' urban and rural status as well where those providers are located in terms of applying the wage index used to adjust payment rates to account for differences in labor costs across the country.

And so we have adopted these new delineations. This is something that we do every few years when OMB releases new delineations. So we adopted the new delineations for fiscal year 2021 to allow for a bit of a transitional tax for providers that may be experiencing a significant decrease in their wage index as a result of adopting these delineations.

Along with adopting the revised delineations, we have also adopted a transition policy that applies a 5% cap on wage index decreases from fiscal year 2020 to fiscal year 2021 which means that if your wage - whatever your wage index is for fiscal year 2020 if you're experiencing a decrease going into 2021 that decrease cannot be more than 5%.

Then beyond that we had finalized some changes to the ICD-10 code mapping that we use under PDPM. All of these changes were ones that were that we actually heard from stakeholders. You may remember last year we had finalized a policy where non-substantive changes -- and they defined in our rule last year what defined substantive versus non-substantive -- but we had said that non-supportive changes could be made within a given year. However, any substantive changes would require notice and comment rulemaking.

So there were a number of great suggestions that we had received from folks last year but that were of a substantive nature and could not be applied without notice and comment rulemaking. And through this notice and comment rulemaking for 2021 we were able to go about making those changes. So we're happy to finalize the changes to the code mapping that we believe will help to improve the mapping and thereby improve the accuracy and appropriateness of our payments.

And then with that, I am going to kick it over to (Lang) who will speak about the SNF value-based purchasing program. (Lang)?

(Lang): Thanks, John. Good afternoon everyone. So for the SNF VBP Program, it was a very quiet rule-making year. We updated the record sets to be consistent with (unintelligible) policies. Secondly, we finalized the 30-day review and

correction period to the baseline care and quality measure quality report. Again, this is the December report. Third, we set the performance period for the upcoming program year. And lastly, we published the performance standards for the fiscal year 2020 during program year.

And before I turn it over I just want to remind SNFs that we recently disseminated the August performance score report for the fiscal year 21 year. So in that report you can actually see the upcoming fiscal year (unintelligible) and your ranking for the fiscal year 21 program year.

With that said, here is our health director (unintelligible). I'll turn it over to you.

Jill Darling: Thanks, (Lang). Next we have (Lorelai Kahn) who has an update on the payroll-based journal.

(Lorelei Kahn): Good afternoon everyone. Several weeks ago, under the COVID-19 emergency declarations blanket waivers for health care providers, CMS waived the requirements of 42 CFR 483.70(q), which require nursing home providers to submit staffing data through the payroll based journal system. However, due to the importance of staffing, on June 25th, CMS announced the end of the blanket waiver for staffing submission.

This is a reminder that all nursing homes are required to resume submission of staffing data through the PBJ system as required by the regulation. Specifically, facilities must submit the requisite staffing data for calendar quarter two (April through June) 2020 through the PBJ system by August 14, 2020.

In addition, while not required, we are encouraging nursing homes to submit data for calendar quarter one (January through March) 2020. Calendar quarter one data will not be used to calculate staffing measures or ratings; however, CMS will continue to post the data in a public use file on data.cms.gov.

We would also like to note that since the last PBJ update on an open door forum call the email address for PBJ technical assistance has changed. The new email is IQIES@cms.hhs.gov. This email can also be found on today's agenda.

Finally, we've received questions regarding reporting hours for National Guard and state strike teams that were deployed to assist facilities with staffing shortages due to the public health emergency. These hours are reportable in PBJ only if the facility obtains a statement from FEMA or the state verifying the staffing provided to the facility.

And I will turn it back over to Jill. Thank you.

Jill Darling: Great. Thanks, (Lorelei). And last, we have Ellen Berry who has updates on the MDS 3.0 item sets.

Ellen Berry: Thanks, Jill. Good afternoon or good morning everybody. Just wanted to update everybody that as of this October 1 there are updates to the MDS version 3.0 item sets version 1.17.2. And these updates will allow for the states that opt to have the PDPM calculated on the quote-unquote standalone, comprehensive, and quarterly assessments. And it will only apply to those states where those Medicaid agencies have elected to have the PDPM group for calculating. It will add a number of items for those facilities in those states. So please reach out to your state Medicaid agency if you have not already

heard from them for those who have opted.

That's all I have, Jill. Thank you.

Jill Darling: Great. Thank you Ellen. And thank you to all of our speakers. (Shinita) would you please open the line for Q&A? (Shinita) if you could open the lines for Q&A, please.

Coordinator: We do have a few questions in queue. One moment here for the first question. First question comes from (Sherry Whitman). Your line is open. You may ask your question.

Jill Darling: Hi, (Sherry).

(Sherry Whitman): I have a two-part question. The first part is I'm just trying to understand that 5% cap. It's for the decrease. Is there a cap on an increase? So if in decrease was over 5% would it allow that or is it also capped at 5%?

John Kane: Hey, (Sherry). I saw your email. I promise you I was planning on responding. The cap is only on the decreases. It is not on the increase side. So if you had an increase of 10% in your rate index, that's a 10% increase. But if you had a decrease of 10% then for fiscal year 2021 it would be capped at 5%.

(Sherry Whitman): Okay. So then the other part of that is then we'll also see that (CBSA) wage unit values in the file. They're going to be different based upon those that are moving from rural-to-urban urban-to-rural. So like in 99901 could have a different wage index in it based upon another location coming into it.

John Kane: Right. So if you had a provider who, like if all of the providers in that (CBSA)

area generally remain the same, then the regulate indices that had been posted reflect the 5% decline. However, you might have providers that like you said move from urban to rural or that had moved from one PPS base to another. There may be like differences for certain providers.

Also if you have a new provider that say opens up in fiscal year 2021. They, you know, since the decrease policy only applies to those that have experienced a decrease, then obviously they wouldn't experience a decrease in so much as they are a new provider.

So yes, there will be some differences for certain providers. And this is something that the (MACs) are very well aware of. And so we would encourage anyone that has questions about their specific wage index, for their specific situation to reach out to their (MAC) and they should be able to provide them with that.

(Sherry Whitman): But those are reflected in that wage index file. For those of us that are vendors, it's reflected in that file. It's not necessarily a provider-to-provider basis. Is that correct?

John Kane: Correct. It's on the (CBSA) level. It is not on our provider level. So individual buyers might be different but that final provides that 5% cap at the CBSA level.

(Sherry Whitman): Okay. Thank you.

Coordinator: Our next question comes from (Esther Olson). (Esther), your line is open.

(Esther Olson): Hi. I understand that the quality measures are now only reflecting through

quarterly for 2019. When can we expect a change in our quality measures?
Like for example, we see in our second quarter of 2020 we're going to be five stars. For how long? I mean usually, it's six months behind. For how long at this point are we going to be looking at the quality measures through 2019?

(Ellen Berry): Jill, I'm not sure if (Casey) or (Charles) were able to join the call. So we might have to have that question submitted.

Jill Darling: Yes, I don't think they are on the line. But if you have today's agenda the SNF Open Door Forum mailbox is listed. And you can send...

(Esther Olson): Okay. Thank you.

Jill Darling: You're welcome.

(Lorelei Kahn): Jill, this is (Lorelei). I actually just got a text from someone on our data team that says that has not yet been determined.

Jill Darling: Okay.

(Esther Olson): Okay. Thank you.

Jill Darling: You're welcome.

Coordinator: Our next question comes from Joel VanEaton from Broad River Rehab. Joel, your line is open.

Joel VanEaton: Thank you. Thank you for taking my call. Just a follow up on the MDS or the (RAI) updates. If we could get maybe kind of an estimation of when the (RAI)

manual will be posted.

And then secondly as you know the question some of the questions that the states may require related to capturing PDPM information for comparison and so forth from section I and from section J particularly relates particularly to the preceding hospital stay --the most recent Medicare stay or the qualifying stay throughout the guidelines. And my question is related to those items. Will CMS give us guidelines in relationship to how those will apply to long term care patients or will the states be required to give us specific coding guidelines related to that? Thank you.

Ellen Berry: Hi. Thank you for your question I can answer part of it. And I believe John will probably add to my response. This is Ellen.

At this moment we are not going to issue a new MDS manual. The coding will remain the same other than the language that has changed on the item set. So for example, I believe it's item I 0020 that speaks to the SNF -- the hospital stay preceding the SNF day. That item is specific to the SNF stay. That's how it was tested. That's how it's used in the PDPM calculation. John, do you want to add to that at all?

John Kane: No, I think that that pretty well captures it. I mean, there certainly are going to be some differences in terms of items that were specifically designed for use for part A patients that had had a qualifying stay that preceded this. And certainly when you have a first step in a long-term stay that's not likely to occur or at least not necessarily to occur.

And so I think there have been some changes that were made to the MDS items like. So I would encourage you to take a look at those. And then we can

always circle back regarding if you feel like the manual needs any additional information or clarification or if we should if there's something else we should be considering. But I think that the item sets were adapted to try and help to adjust for some of that.

Joel VanEaton: So I guess the follow up would be because the item set and the instructions haven't changed and they were designed specifically for part A situation -- Medicaid Part A situation -- for the long-term care patient which is going to be the majority of the time, you know, the states were looking to compare this information related to their legacy systems currently for drugs, you know, compared to PDPM and adjusting case mixes and so forth in anticipation of (GE) being gone and other kinds of things happening.

How can state - so I guess that's my question. Are the states going to give us instructions or will CMS give us more specific instruction on how those particular items will relate to those long-term stand-alone quarterlies and comprehensive assessments?

John Kane: So if you think about what the purpose of this item is, it's to identify instances in which a SNF patient has received a recent surgery that could impact on their care trajectory. Because, you know, you may have patients that have the same diagnosis but one that received a surgical intervention during the preceding hospital stay may have a different care trajectory and from our analysis have a different cost trajectory than a patient that received a non-surgical intervention, which is why the system was designed to adapt to those differences.

If you have a person on a long-term stay the chances that they had a recent surgery is pretty low. And the manual provides guidelines for what defines

that recent surgery. And so even though the item sort of still exists in a similar fashion to what it did, the guidelines set around what defines that recent hospitalization should help the states to clarify when that item should be covered and providers as well to define when the item should be covered and when not. Because if a person had a surgery, you know, nine months ago and hasn't been to the hospital since, so it's unlikely that that surgery is something that is affecting their current care trajectory nine months later.

And so just from a simple PDPM classification perspective that wouldn't be the type of surgery that you would want to code on the MDS position classification. So I think understanding the nature of intent of that item helps to filter when that item should be coded and when not.

Joel VanEaton: So basically we would (unintelligible) or just answer no in those cases where there wasn't a recent survey. Or for instance again on section I at I20B it's again related to the, you know, preceding hospital stay in particular. And I guess that's just been a lot of people's questions as to how that might relate to a long-term care patient. So what you're saying is in J we would just answer no but for I20B where we're required to put in an ICD-10 code, that's a bit of a different scenario.

John Kane: Right. For I20B you would still want to have the ICD-10 code that represents their primary diagnosis because that's obviously, you know, the primary diagnosis is still very relevant to the patient classification. But you know, in terms of surgeries, a non-recent surgery is unlikely to be related to their cost and care trajectory. So that wouldn't be something that you would want to pass on and classify them under.

Joel VanEaton: So maybe I guess just a suggestion is to the RA on manual perhaps if you all

are thinking of updating the manual at all a clarification related to how these items currently are instructed and how they might relate to a long-term care patient might be helpful. Thank you.

John Kane: I think that's a good suggestion. Thank you.

Joel VanEaton: Thanks.

Jill Darling: We'll take our next question please.

Coordinator: Yes. Our next question comes from (Mildred DeCastro) from Synergy. One moment. Your line is open.

(Mildred DeCastro): Hi, good morning. Thank you for taking my call. I actually have three questions -- one related to the MDS and two in relation to my first question. So my first question is because of that increased cost of PPE and the requirements especially in California to increase and continue to increase the isolation for patients, will there be a change for that isolation guideline for coding for MDS? So that's my first question.

My second question is for that funding that was released on July 22, it indicated that that is completion of training will be an additional requirement, can receive that additional funding. Is that is the module -- the educational module, the 23 educational module being mentioned in that funding information -- is that the one that's already being released for infection control (petitioner) or is that in addition to that?

And a third question I have is the testing machines that we're really facing a mess. Is there any communication with state regulators, the regulator

particularly in California? Since in California, we have specific regulations requiring for tests, test machines, even for point of care to be at least 90 95 specificity and sensitivity.

John Kane: So this is John. I can speak to the first question. And the answer is that we are not we're not planning at this time to make any changes to our equation coding guidance. That will remain as it is.

For the other two, I'm not sure if anyone is on the line that would be able to address either of those questions.

(Christine Teague): Hi this is Christine from the Division of Nursing Homes. And we are currently working in conjunction with CDC to get a frequently asked questions document regarding testing, which we anticipate to be posted very shortly.

Jill Darling: Thank you, (Christine). We'll take our next question, please.

Coordinator: Our next question comes from (Joanne Carroll) from (BKB). (Joanne) your line is open.

(Joanne Carroll): Thank you. This question is for John. John, were the states given a certain timeline to opt into using the PDPM items in order to do the comparison? And if so, will there be any - or how will that be communicated to the states? Would that be the individual state's responsibility if they choose to use that?

And then a second question is where those items that are asked that relate specifically to the Medicare Part A quality measures, will they continue - will they also be asked and be a part of that or will it only be those item set items I

should say in the item set sort of quarterly or for the comprehensive that will be required just to be able to generate that PDPM rate?

Ellen Berry: John do you want me to take part of that?

John Kane: Yes, if you don't mind. Thank you.

Ellen Berry: Okay. We have requested that the states notify us so that we can update the QIES system to accommodate for the PDPM by October 1. However, states will have the ability to request the PDPM after October 1.

So I'm making this totally up because I don't know what states have or have not opted off the top of my head. Let's say New Jersey did not opt for PDPM for this October 1. They could come October 9 say yes, we want to start collecting those items for December, yes, for December 1 of 2020. So they will have that capability. Our system is not created yet or it's not been updated to allow them to go in and do that.

The second is the only items that I can recall off the top of my head that are going to be active will be the GG0130 column 1 and the GG0170 column 1. The I0020, the J2100 and then the J2300 to J5000 series. But they are for PDPM. They're not for measures. So they can't...

(Joanne Carroll): Okay.

Ellen Berry: ...be used as that. Okay?

(Joanne Carroll): That's great. Thank you.

Coordinator: And our next question comes from (Nate Harris) from the Health Care Council of Illinois. (Nate) your line is open.

(Nate Harris): Hi. Thank you for taking my question. When you guys were talking about the payroll-based journal changes earlier, you went just very quickly. So I was just wondering could you go back and say what was the waiver that is going away? When do facilities need to report that information again? And what was the timeframe they needed to report? Thank you.

Jill Darling: Is (Lorelei) on?

(Lorelai Kahn): Yes. I'm sorry. Could you repeat the questions?

(Nate Harris): Sure. For the payroll-based journal updates, my first question was what was the waiver that is going away. Second question was when do the facilities need to start reporting again. And the third question was what was the timeframe they need to report.

(Lorelai Kahn): Okay. So the waiver basically applied to the data from January through March. It would have been submitted on May 15th. And we waived that May 15th deadline. And although submission of that data is not mandatory, we are encouraging facilities to submit that data when they can. We are not using that in the calculation of the five-star ratings but we will be posting it in the public use files on data.medicare.gov.

The next submission deadline is August 14th and that is for staffing data from April 1st through June 30th.

(Nate Harris): Great. Thank you. And was that going to be updated on the PBJ website that's

linked to in the agenda? Because I went to that under and what's new that information is not there. Thank you.

(Lorelai Kahn): So the submission deadlines never change. Those deadlines are always the same. And those, the submission deadlines, are posted on the PBJ website.

(Nate Harris): Great.

Coordinator: Our next question comes from (Lynn C.) from Meadow Ridge. (Lynn) your line is open.

(Lynn C.): Good afternoon. Thank you for taking my call. My question is regarding clarification of the 1135 waiver regarding the three-day qualifying hospital stay. Is this a complete waiver for the entire country no matter whether you are in a high infection rate or not? If your hospital has no infection rate does this waiver still apply?

Man: Yes, that is correct.

(Lynn C.): No matter what the diagnosis or whether your hospital is not being overwhelmed we can still use the waiver.

Man: That is correct.

(Lynn C.): Thank you.

Todd Smith: And this is Todd Smith. You still need to meet the skilled level care requirement.

(Lynn C.): Correct.

Todd Smith: Okay.

(Lynn C.): Thank you.

Coordinator: Our next question comes from (Mary Madison). (Mary), your line is open.

(Mary Madison): Thank you for this meeting this afternoon. I heard you Ellen say that there will not be a new (RAI) manual issued. And my question maybe comment is will the survey teams be aware of that. Oftentimes when they're onsite doing survey they'll ask to see the current RAI manual that's being used. So when they move in and do surveys after the first of the year they're still going to see October 2019 because there's no manual.

And my second question is asking when an updated appendix TP will be posted. Thank you.

(Christine Teague): Hi, this is (Christine) from the Division of Nursing Homes and I will be sure to communicate with the survey team that there will not be a release of the RAI manual and they will continue to use the 2019 version. And as far as your second question, Appendix PP we are working to get appendix PP updated and released but we do not have a release date for it at this time.

(Mary Madison): Thank you very much.

Coordinator: Our next question comes from Joel VanEaton from Broad River Rehab. Joel, your line is open.

Joel VanEaton: Hey. Thanks for taking my second question. It's really just a suggestion. I don't know if this can be done but the wage index posting at the wage index website when you all posted the wage indexes for the proposed rule was tremendously helpful. It had a lot of the tables that were similar to what was in the past and it also had sort of an appendix or another tab there that gave a really nice comparison table to the changes that occurs. It's a lot easier to read.

The one that got posted with the final rule was a little bit more scaled-down. Wondering just as a suggestion if you guys might be able to post a similar table that you had for the proposed rule. That was just a suggestion. Thank you very much.

Man: Thanks, Joel, We can - we'll definitely look into that. Thank you.

Joel VanEaton: Thanks.

Coordinator: And at this time I show no further questions in the queue.

Jill Darling: All right. I can hand the call over to Todd for closing remarks.

Todd Smith: Thanks, Jill. I just want to thank everyone who called in today. We really appreciate it. And again just what I said before. We thank you for all of your work out there and dedication. We really appreciate it. So with that, I'll turn it back to you, Jill.

Jill Darling: Okay. Thanks, Todd. Again, thanks everyone. We will send out the agenda for the next (ODF) call. So just be on the lookout for that. Thanks, everyone. Have a great day.

Coordinator: This does conclude today's conference. Thank you all for participating. You may now disconnect.

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