National Hospice and Palliative Care Organization

Regulatory Alerts

NHPCO
Leading Person-Centered Care

FY 2022 Hospice Wage Index and Quality Reporting Final Rule published in Federal Register

To: NHPCO Provider Members
From: NHPCO Policy Team
Date: July 30, 2021 – ***UPDATED September 2, 2021***

Summary at a Glance

On Thursday, July 29, 2021 the FY 2022 Hospice Wage Index and Payment Update Final Rule went on display on the Federal Register website for public inspection. It will be published in the Federal Register on August 4, 2021. All regulations will take effect on October 1, 2021.

- The final hospice rate increase for FY 2022 is **2.0%.**
- The final hospice cap amount for FY 2022 is **$31,297.61**.
- NHPCO has prepared the **FY 2022 Final Wage Index State/County Rate Chart**, which is found on the Regulatory Medicare Reimbursement page of the website for members.
- Technical changes and clarifications to the election statement addendum were finalized.
- Two 1135 waivers were made permanent.
- Hospice Care Index finalized.
- Updates on the HOPE Assessment Tool were detailed.
- Hospice CAHPS® Star Ratings finalized.

1. Reimbursement, Rates and Cap

There are several rate and calculation changes to note from the final rule:

- **Wage index values have changed:** The wage index values for every county have been adjusted from those published in the proposed rule. Please check carefully to ensure that the final wage index values are used.
- **% of FY 2022 increase has dropped:** Note that the final rate increase is **2.0%.** Use the State/County Rate Chart to accurately predict your hospice's rates for each level of care in each county served.
- **Percentage of Labor Component has changed:** There is a slight adjustment in the labor component for each level of care. Table 1 is included below to provide details on the labor component percentages.
- **Rebasing and revising the labor component of the rates:** CMS confirms that they have used cost report data for freestanding hospices from 2018 to rebase and revise the rates.
- **OMB Revised CBSA Delineations:** The final rule maintains the proposal to implement revised Office of Management and Budget (OMB) statistical delineations for the hospice payment system adopted in the FY 2021 final rule. CMS reiterates that the one-year

transition policy (resulting from these changes) of a 5 percent cap on wage index decreases applied only to FY 2021. Thus, CMS notes that no cap will be applied to wage index decreases for the second year (FY 2022). Some providers will see a significant decrease in their wage index values as a result of these OMB policies.

- The CMS files with final FY2022 **wage index values** can be found on the CMS website.
- The **CMS charts showing the FY 2022 FINAL rates for each level of care**, both for hospices that do and do not submit quality data, are included below.

Table 1: Final, Proposed and 2021 Labor Shares by Level of Care

	Final FY 2022 Labor Share	Proposed FY 2022 Labor Share	FY 2021 (Current Year) Labor Share
Routine Home Care	66.0%	64.7%	68.71%
Continuous Home Care	75.2%	74.6%	68.71%
Inpatient Respite Care	61.0%	60.1%	54.13%
General Inpatient Care	63.5%	62.8%	64.01%

Table 2: FINAL FY 2022 Hospice Payment Rates (with Quality Reporting)

Code	Description	FY2021 Payment Rates	Wage Index Standardization Factor	FINAL FY 2022 Hospice Payment Update	FINAL FY 2022 Payment Rates
651	Routine Home Care (days 1-60)	$199.25	X 1.0002	X 1.02	$203.40
651	Routine Home Care (days 61+)	$157.49	X 1.0001	X 1.02	$160.74
652	Continuous Home Care Full rate = 24 hours of care	$1,432.41	X 1.0006	X 1.02	$1,462.52 ($60.94 per hr)
655	Inpatient Respite Care	$461.09	X 1.0014	X 1.02	$473.75
656	General Inpatient Care	$1,045.66	X 1.0019	X 1.02	$1,068.28

Table 3: FINAL FY2022 Hospice Payment Rates for Hospices that DO NOT Submit the Required Quality Data

Code	Description	FY2021 Payment Rates	Wage Index Standardization Factor	FINAL FY2022 Hospice Payment Update of 2.0% minus 2 percentage points = +0.0%	FINAL FY 2022 Payment Rates
651	Routine Home Care (days 1-60)	$199.25	X 1.001	X 1.000	$199.41
651	Routine Home Care (days 61+)	$157.49	X 1.0009	X 1.00	$157.58
652	Continuous Home Care Full rate = 24 hours of care	$1,432.41	X 1.0004	X 1.00	$1,433.84 ($59.74per hr)
655	Inpatient Respite Care	$461.09	X 1.0014	X 1.00	$464.46
656	General Inpatient Care	$1,045.66	X1.0019	X 1.00	$1,047.33

CMS comments on using freestanding hospice cost reports to rebase and revise the labor component of hospice rates: CMS responded to stakeholder comments on using the Medicare Hospice Cost Report data by saying: "Response: We believe that our proposal to revise the labor shares based on MCR data for hospice providers is a technical improvement to the current labor shares. We disagree with commenters that the hospice MCR data does not provide adequate or appropriate measure of labor expenses." They also stated that the "proposal to use the 2018 MCR data recognizes that providers have had 4 years to familiarize themselves with the form and, thereby, improve the accuracy of the data."

Frequency of updating labor shares in the future: CMS states that they tentatively plan to rebase the hospice labor shares on a schedule of every 4-5 years, similar to other Medicare provider types. However, in light of the COVID–19 PHE, we plan to monitor the upcoming MCR data to see if a more frequent revision to the hospice labor shares is necessary in order to reflect the most recent cost structures of hospice providers.

2. Clarifying Regulation Text Changes for the Hospice Election Statement Addendum

Based on questions from stakeholders, and hospice providers' experiences with using the election statement addendum, CMS has is making several changes to the regulation text regarding the addendum. NHPCO has had extensive discussions with the MACs around the changes in the election statement addendum, which are outlined below:

A. In the case of death, revocation or discharge prior to furnishing the addendum:

The hospice must note the reason the addendum was not furnished to the patient and the addendum would become part of the patient's medical record **if the hospice has completed** it at the time of discharge, revocation, or death. (if the addendum was not completed, there should be CLEAR documentation somewhere in the record noting the reasoning.)

B. In the case of furnishing the addendum, but beneficiary dies, revokes or is discharged prior to signing the addendum:

The hospice must note (on the addendum itself) the reason the addendum was not signed and the addendum would become part of the patient's medical record.

In either of the cases, if there is clear documentation in the record supporting the hospice followed all time frames with regards to the request, and the documentation clearly spells out why it wasn't furnished or signed, the hospice should have no issues with medical review.

A helpful sequence for the addendum requirement when the patient has died, revoked or live discharged in the first 5 days of election:

Prior to furnishing the addendum: Beneficiary/representative requests the addendum → dies, revokes or is discharged in first 5 days of election → hospice is not required to furnish the addendum. Documentation required and addendum included in patient's medical record if prepared. If not prepared, clear documentation in medical record noting reasoning.

Prior to signing the addendum: Beneficiary/representative requests the addendum → hospice furnishes the addendum in the first 5 days → bene dies, revokes or is discharged prior to signing → signature is no longer required. Documentation is required on the addendum itself noting the reason the addendum was not signed and the addendum would become part of the patient's medical record.

Documentation of dates will be key in these instances as well as the documentation of the reasoning.

C. Refusal to sign: If the beneficiary (or representative) refuses to sign the addendum, the hospice must document on the addendum the reason the addendum was not signed and the addendum would become part of the patient's medical record.

D. Effective date: October 1, 2021.

3. <u>1135 waivers made permanent in FY 2022 Final Rule</u>

CMS has made permanent the following two 1135 waivers that were implemented during the pandemic.

§418.76 Condition of participation: Hospice aide and homemaker services.

(c) * * * (1)

The competency evaluation must address each of the subjects listed in paragraph (b)(3) of this section. Subject areas specified under paragraphs (b)(3)(i), (iii), (ix), (x), and (xi) of this section must be evaluated by observing an aide's performance of the task **with a patient or pseudo-patient**. The remaining subject areas may be evaluated through written examination, oral examination, or after observation of a hospice aide with a patient or a pseudo-patient during a simulation.

(h) * * * (1) * * * (iii)

If an area of concern is verified by the hospice during the on-site visit, then the hospice must conduct, and the hospice aide must complete, a **competency evaluation of the deficient skill** and all related skill(s) in accordance with paragraph (c) of this section.

4. <u>Updates to the Hospice Quality Reporting Program</u>

A. The Hospice and Palliative Care Composite Process Measure—HIS-Comprehensive Assessment at Admission measure (HIS Comprehensive Assessment Measure)

- CMS is finalizing its proposal to remove the seven individual HIS process measures from public reporting as individual measures on Care Compare no earlier than May 2022.
- In addition, CMS will remove the "7 measures that make up the HIS Comprehensive Assessment Measure" section of Care Compare, which displays the seven HIS measures.
- These will be effective no earlier than May 2022.
- Hospice providers must report HIS data used for the HIS Comprehensive Assessment Measure, in order to meet the requirements for compliance with the HQRP.

B. Hospice Care Index (HCI)

- CMS has finalized a new hospice quality measure, called the Hospice Care Index (HCI) which is a composite measure that is comprised of ten indicators calculated from Medicare claims data and represents different aspects of hospice service.

- CMS is finalizing the proposal to add composite HCI measures to the HQRP as of FY 2022 and will monitor the measure. The measure will be publicly reported in Care Compare no earlier than May 2022.
- CMS will continue to monitor the HCI after implementation to ensure the measure reflects hospice quality, differentiates between hospices, and does not become topped out.

C. Proposal to Revise § 418.312(b) Submission of Hospice Quality Reporting Program data CMS did not receive comments on this proposal. CMS has finalized the following regulation at § 418.312(b) to add paragraphs (b)(1) through (3). They will include administrative data as part of the HQRP and will correct technical errors identified in the FY 2016 and 2019 Hospice Wage Index and Payment Rate Update final rules.

D. Update regarding the Hospice Outcomes & Patient Evaluation (HOPE) development

- CMS thanked commenters for their feedback on the HOPE tool. CMS states that they "will continue to host HQRP Forums to allow hospices and other interested parties to engage on the latest updates and ask questions on the development of HOPE and related quality measures."
- CMS has also established a dedicated email account to the HOPE assessment at HospiceAssessment@cms.hhs.gov to receive ongoing questions and comments.
- CMS will use field test results to create a final version of HOPE to propose in future rulemaking for national implementation and they will continue to engage all stakeholders throughout this process.
- Future updates and engagement opportunities regarding HOPE can be found at: https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/HOPE.html

E. Update on Quality Measure Development for Future Years

- CMS received many comments on the development of future quality measures.
- Commenters urged CMS to monitor duplication of measures when HOPE-based and other future measures are under development. Many commenters emphasized the need to engage providers to share information and for CMS to seek feedback when developing quality measures.
- CMS thanked all the commenters for their thoughtful suggestions and feedback related to future of quality measure development for the HQRP and appreciates suggestions for new quality measures, as well as comments about the public reporting of quality measures.
- CMS will take these comments under advisement for future consideration of quality measures and the Meaningful Measures System Blueprint.

F. CAHPS® Star Ratings

- CMS will display CAHPS® Hospice Survey Star Ratings no sooner than FY 2022.
- Prior to finalizing a timeline, CMS will provide multiple opportunities to share information and receive comments from stakeholders. This could include a special open-door forum or other venues for interaction.
- CMS will not include data from Q1 and Q2 2020 in Star Rating calculations, as hospices were exempt from submitting these quarters of data to CMS due to the COVID-19 PHE.

- CMS will also explore the feasibility of conducting a dry run of the Star Ratings with reporting to hospices via preview reports, which would occur prior to the start of the public display of the ratings.

G. Proposal for Public Reporting of HIS-based Measures with Fewer than Standard Numbers of Quarters Due to PHE Exemption in February 2022

- CMS is finalizing their proposal that, in the COVID-19 PHE, 3 quarters of HIS data would be used for the final affected refresh, the February 2022 public reporting refresh of Care Compare for the Hospice setting.
- Using 3 quarters of data for the February 2022 refresh would allow CMS to begin displaying Q3 2020, Q4 2020, and Q1 2021 data in February 2022, rather than continuing to display November 2020 data (Q1 2019 through Q4 2019).
- CMS states that updating the data in February 2022 by more than a year relative to the November 2020 freeze data would assist consumers by providing more relevant quality data and allow hospices to demonstrate more recent performance. Testing results indicate to CMS that providers can achieve these positive impacts while maintaining high standards for reportability and reliability.
- CMS is also finalizing their proposal to publicly report the most recently available 8 quarters of CAHPS® data starting with the February 2022 refresh and going through the May 2023 refresh on Care Compare.
- CAHPS® data cannot be publicly reported for Q1 2020 and Q2 2020 data due to the COVID-19 PHE.

H. Update on Transition to iQIES

- CMS thanked submitters for their comments, especially the requests that CMS provide adequate advanced notice regarding the transition of hospice to the iQIES systems.
- CMS plans to communicate with the provider community via sub-regulatory guidance about the upcoming transition to iQIES as the timing becomes clear. CMS' intention is to provide sufficient time and appropriate information for a smooth transition.

I. Proposals for calculating and publicly reporting "claims-based measures" as part of the HQRP

- CMS is finalizing as proposed to publicly report the HCI and HVLDL claims based measures beginning no earlier than May 2022, and to include it in the Preview Reports no sooner than the May 2022 refresh.
- CMS will update the claims-based measures used for the HQRP annually and will refresh claims-based measure scores on Care Compare, in preview reports, and in the confidential CASPER QM preview reports annually.
- Claims-based measure scores will be calculated based on one or more years of data and which publicly shares only the most up-to-date information and best reflects current realities.
- CMS also states that having only the most recent data can also help incentivize hospices with lower scores to make changes and have the results of their effort be reflected in better scores.
- The HCI and HVLDL measures will utilize 2 years (8 quarters of Medicare claims data) of data to publicly report in 2022.

- Should a hospice provider believe they have found an error with an HIS or claims-based measure calculation as displayed in their preview reports, they can request a review, and data will be suppressed if the review finds the calculation problematic.
- In addition to the Preview Report, Hospice Agency-Level QM Report in CASPER we will also include claims-based measure scores. Measure scores will be updated annually in the QM Report as they will in the Preview Report and on Care Compare and the Provider Data Catalogue.
- CMS will remain open to reconsidering the frequency of reporting claims across all PAC settings in the future, should data after implementation indicate that such change is warranted.

5. **Fast Healthcare Interoperability Resources (FHIR) in support of Digital Quality Measurement in Post-Acute Care Quality Reporting Programs – Request for Information**
   - Many commenters noted that there is a great deal of variation among FHIR systems, which could impede the adoption of a standard system across hospices.
   - Commenters also expressed issues surrounding interoperability capabilities of EHR vendor systems noting that currently, some EHR vendors do not include features important for interoperability as a part of their base product, which would represent additional costs for hospices which can lead to affordability issues for many providers.
   - Furthermore, commenters noted that interoperability challenges lead to complications when sharing health information with other providers.
   - CMS expressed thanks for comments in and plans to continue working with other agencies and stakeholders to coordinate and to inform our transformation to dQMs leveraging health IT standards. They will actively consider all input as we develop future regulatory proposals or future sub regulatory policy guidance. Any updates to specific program requirements related to quality measurement and reporting provisions would be addressed through separate and future notice- and-comment rulemaking, as necessary.

6. **Closing the Health Equity Gap in Post-Acute Care Quality Reporting Programs – Request for Information**
   - CMS received many comments about the use of standardized patient assessment data in the hospice setting to assess health equity and social determinants of health (SDOH).
   - Notable comments included:
     - CMS consideration about additional factors which should be considered when collecting data about health equity and disparities.
     - CMS was encouraged to stratify quality measures by demographic data, social risk factors, and social determinants of health.
     - Encouragement for CMS to implement a best-practice assessment for the collection of demographics and SDOH data.

NHPCO members with questions after reviewing the full Regulatory Alert should email regulatory@nhpco.org with FY 2022 Final Rule in the subject line.

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