

GREATER NEW YORK HOSPITAL ASSOCIATION

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The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1780-P
P.O. Box 8013
Baltimore, MD 21244-8013

Dear Ms. Brooks-LaSure,

On behalf of the more than 200 voluntary and public acute care hospitals and residential health care facilities that comprise the Greater New York Hospital Association (GNYHA) membership, I appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) proposed rule for the calendar year (CY) 2024 home health prospective payment system (HH PPS). Our comments focus on CMS's proposed Federal payment rate update, including recommendations on the market basket update, the patient-driven grouping model behavioral adjustment, and CMS's request for information (RFI) on accessing home health aide services.

If you have any questions or would like further details on GNYHA's recommendations, please contact Joe Corwin (212-506-5453/jcorwin@gnyha.org).

Thank you for considering our recommendations.

Sincerely,



Elisabeth R. Wynn
Executive Vice President, Health Economics & Finance



GNYHA is a dynamic, constantly evolving center for health care advocacy and expertise, but our core mission—helping hospitals deliver the finest patient care in the most cost-effective way—never changes.

Federal Payment Rate Update

For CY 2024, CMS proposes an overall -2.2% payment update resulting in a \$375 million decrease in home health care payments. The following components comprise the overall payment rate update.

| Rate Update Component | Percentage Impact |
|------------------------------------|-------------------|
| Market Basket Update | 3.0% |
| Productivity Adjustment | -0.3% |
| Fixed Dollar Loss Ratio Adjustment | 0.2% |
| PDGM Permanent Adjustment | -5.1% |
| Total Rate Update | -2.2% |

The net market basket increase, which is the difference between the market basket update and the productivity adjustment in the table above, uses 2023 Q1 IHS Global Inc.’s (IGI) forecast to adjust for growth in costs over the past year. The rate is positively impacted by 0.2% to account for an update to the fixed dollar loss ratio, which is used to determine outlier payments. The decrease in the overall payment rate update is driven largely by CMS’s proposed -5.1% behavioral adjustment cut to implement the remaining permanent patient-driven grouping model (PDGM) adjustments to reconcile overpayments that occurred in CYs 2020 and 2021 due to the transition from the Home Health Resource Group (HHRG) case-mix system to the PDGM. GNYHA is concerned about the proposed payment rate update, given the \$375 million decrease in home health care payments, and believes that these cuts will create both operational and financial challenges impacting home health agencies’ ability to provide high-quality care to their Medicare recipients.

Market Basket Update

CMS proposes a 2.7% HH PPS market basket update factor for CY 2024, reflecting a 3.0% market basket update and a -0.3% productivity adjustment. GNYHA previously commented in fiscal year (FY) 2024 Medicare inpatient PPS and skilled nursing facility (SNF) PPS proposed rules about the COVID-19 pandemic’s ongoing and significant impacts on labor costs that have created operational and financial challenges for health care providers. Unfortunately, these trends will continue, and CMS’s proposed HH PPS payment update falls short of recognizing the cost pressures facing home health care providers for supplies, goods, and staffing costs.

Home health agencies (HHAs) are also challenged by increasing transportation costs, which represent a substantial portion of HHAs total costs because staff often travel to visit multiple patients each day across a region. The average gas price in New York is approximately \$3.92 per gallon, around 10 cents higher than the national average (AAA, 2023). In addition, the Metropolitan Transportation Authority increased subway and rail transportation costs from \$33 to \$34 for a seven-day unlimited pass on August 20, 2023, which only adds to the rising transportation costs for home health aides in New York. A recent Home Care Association of New York State (HCANYS) report noted that nearly 75% of respondents stated gas and other expenses had a moderate or high impact on increasing provider costs (HCANYS, 2023).

A 2023 industry trends report by Axxess and SimiTree also showed that 25% of home health care providers identified reimbursement rates as the biggest challenge that they would face in 2023, second only to recruitment and retention of staff. (Axxess SimiTree, 2023). The same Axxess and SimiTree report also noted that more than 40% of home health care respondents were concerned that care quality could decrease due to lower reimbursement rates.

As we have commented previously, GNYHA continues to be concerned that CMS's market basket methodology underestimates cost growth in periods of rapid inflation. CMS's FY 2024 SNF PPS final rule included a 3.6% forecast error adjustment to account for the difference between the projected and actual market basket update included in the prior year's rate update. This forecast error adjustment increased the SNF rate update from 0.4% to 4.0%, positively impacting SNF payments as SNFs continue to struggle financially while recovering from the COVID-19 pandemic. GNYHA believes that Medicare rate updates should be better aligned to account for these rapid inflation periods.

In the CY 2023 HH PPS final rule, the projected 3.3% market basket update uses first-quarter 2022 projections. The actual first-quarter 2022 change resulted in a 5.1% increase or 1.8% higher than CMS's projected market basket used in its CY 2023 HH PPS final rule. Given the shortfall between the projected HH market basket and the actual HH market basket, **GNYHA recommends CMS adopt a one-time forecast error adjustment of 1.8% to account for differences between the projected and actual market basket changes from last year.**

GNYHA also believes the proposed 2.7% net market basket update inadequately addresses inflationary pressures and rising labor and transportation costs facing home care agencies. In addition, decreased staffing has led to home health agencies reducing admissions, reducing access to home care services, and negatively impacting HHAs' financial margins. We recommend CMS update the market basket index using the most recently available quarterly data from IHS Global.

PDGM Behavioral Adjustment

In the CY 2023 HH PPS final rule, CMS implemented a permanent -3.925% cut to account for overpayments in 2020 and 2021 associated with the transition to the PDGM case-mix system. This was half of its proposed -7.85% adjustment, and in CY 2024, CMS proposes to implement the remainder of the permanent behavioral adjustment cut. By law, CMS must institute a permanent behavioral change adjustment by 2026 to achieve budget neutrality to account for the alleged overpayments during the PDGM transition in CYs 2020 and 2021. In addition, CMS must annually determine the impact of differences between assumed behavior changes and actual behavior changes on estimated aggregate expenditures beginning in 2020 and ending in 2026. Based on these results, CMS has the authority to implement additional cuts to cover any identified gaps in assumed versus actual payments that occurred during the transition to reach budget neutrality by 2026.

Using updated CY 2022 claims and the methodology finalized in the CY 2023 HH PPS final rule, CMS determined that Medicare overpaid under PDGM in CY 2022 compared to the prior home health resource group system. To account for these overpayments, CMS proposes adding a total PDGM cut of -5.653% that includes the remaining -3.925% permanent cut not applied to CY 2023 payment rates and an additional -1.73% cut to account for actual behavioral changes identified in CY 2022 claims. After including low-

utilization payments, which are not subject to the PDGM cut, the overall adjustment lowers to -5.1% on all payments but still greatly impacts CY 2024 home health provider payments. CMS states if the PDGM 30-day base payment rate remains higher than it should be and a permanent behavior adjustment is not applied, then there would likely be a compounding effect on the rate, potentially creating the need for an even larger reduction to adjust for behavioral changes in future years.

GNYHA recommends CMS delay adding any further adjustments, such as the -1.73% based on annual estimated aggregate expenditure analyses of CY 2022 claims, to the permanent -7.85% PDGM cut associated with CY 2020 and CY 2021 claims until 2026. GNYHA recommends delaying these potential annual cuts to ensure CMS's methodology properly-measures changes in utilization and to allow time to collect additional comparative years' data to ensure any post-pandemic utilization and financial trends can be compared to similar post-pandemic utilization years, resulting in more consistent results.

RFI for Access to Home Health Aide Services

CMS is requesting information about challenges facing home health beneficiaries in accessing and receiving home health aide services. CMS notes that home health aide visits have decreased from 2018 to 2022 and seeks to ensure that all Medicare beneficiaries have access to all covered services for which they qualify. GNYHA's comments below focus on utilization trends, supply and demand constraints, and recruitment and retention challenges.

Utilization Trends

According to the Medicare Payment Advisory Committee (MedPAC) March 2023 report to Congress, 3 million fee-for-service (FFS) beneficiaries nationally received care through home health agencies in 2021, a 1.1% reduction from 2020, and the volume of 30-day care periods also declined by 2.9% in 2021. In addition, FFS home health visits decreased by 27% from 2017 to 2021, from 104.8 million visits to 76.8 million visits, respectively.

As noted in the report, home health care utilization was slowly declining even before the pandemic, with aggregate and per capita hospitalizations—often seen as a proxy for referrals—decreasing, and persistent staffing shortages handcuffing home health agencies' ability to admit referrals and expand services. In addition, telehealth usage and virtual visits have also grown since the onset of the pandemic, further impacting in-person utilization (MedPAC, 2023).

Recent home health care staffing challenges also impact upstream providers' ability to discharge to home health care. A recent joint New York hospital association survey analysis confirmed that fiscal issues and workforce shortages contributed to discharge challenges across the continuum, with hospitals reporting a 16% increase in average length of stay from 2021 to 2022, and 92% of hospitals reporting an increase in length of stay between 2021 and 2022. HHA admission rates remain lower than prior years due to HHAs inability to hire staff to provide appropriate patient care, leading to challenges that not only affect HHAs' services but also upstream providers' ability to discharge to home- and community-based settings.

Supply and Demand Constraints

As the US population ages, many Americans prefer receiving treatment at home rather than through an institutional setting. The Center for Health Workforce Studies (CHWS) using Bureau of Labor Statistics estimates notes that jobs in the health care sector, particularly in home health care, will continue to grow faster than in other employment sectors. Within New York State, home health and personal care aides are among the fastest growing health occupations. From 2017 to 2021, home health and personal care aides' employment grew approximately 33% to 478,620. CHWS projects the demand for home health and personal care aides in New York State to increase approximately 42% by 2030, projecting a need for 199,700 more home health and personal care aides compared with 33,420 more registered nurses (CHWS, 2023). New York's trends mirror national projections with the National Center for Health Workforce Analysis projecting home health aide demand to grow 42% between 2020 and 2035 (HRSA, 2022). Despite the need, HCANYs recently reported that home health aides made up about 35% of certified home health care agencies' unfilled positions in 2023 (HCANYs, 2023). As a result, referral decline rates also remain high. An American Health Care Association analysis found that home health staffing decreased for its second consecutive year during 2022, making it highly unlikely that employment growth in the sector will meet the growing demand by 2030, further decreasing access to home health care services.

Recruitment and Retention Challenges

Projected demand for home health aides is outpacing the projected supply. Even though home health and personal care aides are among the largest employed and projected sectors, recruitment and retention efforts have been challenging. Based on an April 2023 CHWS analysis, 90% of survey respondents noted difficulty in recruiting home health aides, and 72% noted difficulty in retaining aides, with 85% of home health care agencies reporting a shortage of applicants. Home health care providers identified recruitment and retention of staff as their biggest challenge in 2023 (Axxess SimiTree, 2023).

To address recruitment and retention challenges, Arizona has implemented a high school-based Home Health Aide/Direct Care Worker Training Program that qualifies high school graduates to work as direct care workers in Arizona's networks of long-term care service providers. Arizona's 20 existing programs serve approximately 800 students. In New York, the SkillSpring Program of the New Jewish Home serves as a good recruitment model and has provided opportunities for high school students and young adults to receive training in a post-acute care environment. Specifically, the New Jewish Home's Youth Adult Program provides free training to qualified participants to become either certified nursing assistants or certified home health aides. The Federal government must provide supplemental grants and funding for these programs so home health agencies, specifically not-for-profits, can expand their efforts to grow their workforce pipeline for the future.

GNYHA recommends CMS consider the many constraints affecting utilization and staffing within home health care. Home health aides serve as the backbone of home health care, and it is therefore imperative that CMS provide home health agencies with appropriate reimbursement while increasing grant and funding resources for programs like the New Jewish Home's SkillSpring program to increase the staffing pool and ensure that Medicare recipients will have access to home-based care.