CMS Delays the Inpatient Hospital “Probe and Educate” Process in the Two-Midnight Rule through September 30th

The Centers for Medicare and Medicaid Services (CMS) is extending the "Inpatient Hospital Prepayment Review 'Probe & Educate' review process for an additional 6 months (through September 30, 2014). This means that:

- "Medicare Administrative Contractors (MACs) will continue to select claims for review with dates of admission between March 31, 2014 and September 30, 2014. MACs will continue to review and deny claims found not in compliance with CMS-1599-F (commonly known as the '2-Midnight Rule')."

- "MACs will continue to hold educational sessions with hospitals as described below in "Selecting Hospitals for Review" through September 30, 2014."

- "Generally, Recovery Auditors and other Medicare review contractors will not conduct post-payment patient status reviews of inpatient hospital claims with dates of admission on or after October 1, 2013 through October 1, 2014."

A copy of this directive is at: http://cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/InpatientHospitalReviews.html.

Background

On August 2, 2013 CMS issued its final Inpatient Prospective Payment System (IPPS) update rule for FY 2014 (CMS-1599-F). The final rule modified CMS’s policy on how Medicare contractors review inpatient hospital and critical access hospital (CAH) admissions for payment purposes. Under this final rule, surgical procedures, diagnostic tests and other treatments (in addition to services designated as inpatient-only), are generally appropriate for inpatient hospital admission and payment under Medicare Part A when (1) the physician expects the beneficiary to require a stay that crosses at least two midnights and (2) admits the beneficiary to the hospital based upon that expectation.

Comment

The 2 midnight rule also reduced by 0.2 percent the FY 2014 IPPS standardized payment amounts to reflect anticipated savings of this policy change. However, while CMS is delaying part of the application of its policy decision for FY 2014, its does not appear that any of the 0.2 percent reduction is being added back to the payment rates.

The material that follows is from the above referenced directive.
Inpatient Hospital Reviews

CMS is issuing guidance about how it reviews 1) inpatient hospital claims impacted by the Final Rule and 2) inpatient hospital claims not impacted by the Final Rule.

1. Reviews Impacted by CMS-1599-F

Prepayment Review

CMS will conduct prepayment patient status probe reviews for dates of admission on or after October 1, 2013 but before September 30, 2014.

Medicare Administrative Contractors (MACs) will conduct patient status reviews using a probe and educate strategy for claims submitted by acute care inpatient hospital facilities, Long Term Care Hospitals (LTCHs) and Inpatient Psychiatric Facilities (IPFs) for dates of admission on or after October 1, 2013 but before September 30, 2014.

- MACs will select a sample of 10 claims for prepayment review for most hospitals (25 claims for large hospitals).
- Based on the results of these initial reviews, MACs will conduct educational outreach efforts and repeat the process where necessary.

Post-payment Review

In general, CMS will not conduct post-payment patient status reviews for claims with dates of admission October 1, 2013 through October 1, 2014.

Recovery Audit Prepayment Demonstration Reviews

Recovery Auditors will not conduct prepayment patient status reviews for claims with dates of admission October 1, 2013 through October 1, 2014. Recovery Auditors may continue to conduct CMS-approved claim reviews, unrelated to the appropriateness of the inpatient admission (i.e. patient status), as described on the Recovery Audit Program webpage entitled Prepayment Review Demonstration.

2. Reviews Not Impacted by CMS-1599-F

Other Inpatient Hospital Reviews

MACs, Recovery Auditors and the Supplemental Medical Review Contractor will continue other types of inpatient hospital reviews, including, but not limited to:

- Coding reviews
- Reviews for the medical necessity of a surgical procedure provided to a hospitalized beneficiary
- Inpatient hospital patient status reviews for dates of admission prior to October 1, 2013 (based on the applicable policy at the time of admission)

Recovery Audit Reviews

- Recovery Auditor post-payment inpatient hospital patient status and medical necessity reviews may continue, but are limited to claims for (1) short stays defined as inpatient zero or one utilization day (less than 2 midnight) stays, (2) for claims with dates of admission prior to October 1, 2013 and (3) for currently approved complex issues.
• NOTE: Automated and semi-automated reviews that are approved, or approved complex reviews for issues other than medical necessity of the inpatient admission (i.e. DRG validation), will continue unless otherwise specified by direction from CMS.

Other Circumstances Supporting Short Inpatient Stays

CMS identified in the final rule and provider outreach circumstances in which the physician’s expectation of a required hospital stay spanning two or more midnights was reasonable, and Part A payment would be generally appropriate, despite an unforeseen circumstance that result in the beneficiary’s length of the stay being shorter (i.e., unforeseen beneficiary death, unforeseen transfer, unforeseen departure against medical advice, and unforeseen clinical improvement). CMS also provided that procedures defined as “Inpatient-Only” are exceptions to the 2-midnight benchmark, and may be appropriately furnished on an inpatient basis regardless of the beneficiary’s length of stay, but do not constitute an all-inclusive list.

Other circumstances where an inpatient admission would be reasonable in the absence of an expectation of a 2-midnight stay should be rare and unusual. To date, CMS has identified “Mechanical Ventilation Initiated during Present Visit” as the only rare and unusual circumstance in which the 2-midnight benchmark would not apply (see “Reviewing Hospital Claims for Patient Status” in the Downloads section below). CMS will work with the hospital industry and with MACs to determine if there are any categories of patients that should be added to this list. Suggestions should be emailed to IPPSAdmissions@cms.hhs.gov with “Suggested Exceptions to the 2-Midnight Benchmark” in the subject line. If any rare and unusual exceptions are identified by CMS, these will be provided through sub regulatory instruction.

Additional Information

On January 31st, CMS also issued a 6-page document titled “Reviewing Hospital Claims for Patient Status: Admissions On or After October 1, 2013 (Last Updated: 01/31/14).” A copy is at: http://cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/Downloads/ReviewingHospitalClaims_forAdmission_forPosting_01312014_508Clean.pdf.