

## CMS to Increase Penalties for Excessive Hospital Readmissions

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On April 26, 2013, the Centers for Medicare & Medicaid Services (CMS) issued its fiscal year (FY) 2014 proposed rule for acute care hospitals and long-term care hospitals (LTCHs) paid under the Inpatient Prospective Payment System (IPPS). In the FY 2014 proposed rule, CMS is considering implementing several changes to the Hospital Readmissions Reduction Program, including adding two new conditions – chronic obstructive pulmonary disease (COPD) and hip or knee replacements – that may lead to a reduction in a hospital’s reimbursement for a readmission within 30 days of discharge. Previously, in the FY 2012 IPPS/LTCH PPS final rule, CMS adopted three readmission conditions – acute myocardial infarction, heart failure and pneumonia – for the Hospital Readmissions Reduction Program beginning in FY 2013.

For FY 2014, CMS recommends the inclusion of COPD to the current readmission measures since COPD is considered to be one of the leading causes of potentially preventable readmissions. Additionally, CMS proposes to include hip and knee replacements in the Hospital Readmissions Reduction Program, because they are high-volume and high-expenditure procedures and both procedures combined account for the largest procedural cost in the Medicare budget. By proposing to add COPD and hip and knee replacements to the current list of readmission measures, CMS will expose those hospitals with an excessive number of readmissions to increased financial liability.

Despite the addition of two new readmission measures, CMS also proposes to identify and exclude planned readmissions from the readmissions penalties. The proposed rule explains that if the first readmission is planned, it will not count as a readmission, nor will any subsequent unplanned readmission within 30 days of the index readmission. In order to properly identify planned readmissions, CMS has developed a “Planned Readmissions Algorithm,” which would decrease the 30-day readmission rate by 1 percentage point for acute myocardial infarction, 1.5 for heart failure, and 0.7 percentage points for pneumonia, if these changes were applied to FY 2013 data. CMS believes that the Planned Readmissions Algorithm will result in a more accurate readmission calculation for purposes of determining the payment adjustment. CMS does warn, however, that it intends to monitor trends regarding the number of planned readmissions for evidence of misuse or misapplication.

Comments on the proposed rules must be received by CMS by June 25, 2013.

Squire Sanders lawyers have significant experience in advising clients on Medicare reimbursement issues. We continue to monitor regulatory changes in this area and are available to counsel clients on these matters. For more information regarding how we can assist you, please contact your principal Squire Sanders lawyer or one of the lawyers listed in this publication.

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