CMS Response to Public Comments Received for CMS-10225

The Centers for Medicare and Medicaid Services (CMS) received comments from the American Hospital Association related to CMS-10225. This is the reconciliation of the comments.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received comments from the American Hospital Association (AHA) related to the proposed required disclosures concerning physician-owned hospitals. The AHA reiterated comments it had made in response to the provisions related to physician-owned hospital disclosures contained in CMS-1533-P, proposed changes to the Inpatient Prospective Payment System (IPPS) and FY 2008 rates. These comments concerned the scope of the proposed disclosure requirement, the definition of the beginning of an admission or outpatient visit, and provision of a list of physician investors.

Response:

CMS responded to these comments in the final rule governing the changes to the IPPS, CMS-1533-F. The comments fall outside the scope of CMS-10225.

Comment:

AHA also commented on the disclosure burden related to 24/7 physician availability and hospital emergency capacity. AHA reiterated the comments it made on CMS-1533-P suggesting that the disclosure requirement be limited to physician-owned specialty hospitals.

Response:

CMS responded to these comments in CMS-1533-F. The comments fall outside the scope of CMS-10225.

Comment:

AHA also stated that CMS should restrict the disclosure requirement to inpatient admissions and outpatient visits that include surgery, other invasive procedures, the use of general anesthesia and other high-risk treatment, with the exception of emergency department services. Further, AHA stated that emergency department services should be exempted from disclosure. AHA indicated that patients being admitted to the hospital or having procedures that are invasive, involve anesthesia or are higher risk have different expectations than do other outpatients, and that a disclosure to all outpatients does not

make sense. AHA indicated that if CMS's intent was to broadly expand community understanding of a hospital's limitations, that that goal could be accomplished through signs in hospital EDs and outpatient clinics and an annual notice in the local newspaper. AHA stated that its proposed changes would reduce the burden associated with the disclosure requirement.

Response:

CMS appreciates AHA's comment, but notes that the proposed changes would require substantive revision to the rules proposed in CMS-1533-P. AHA did not include these suggested changes in its comments on CMS-1533-P, and the final rule, CMS-1533-F did not change the scope of the required disclosure. CMS is unable to consider the substance of this comment within the framework of CMS-10225.

Comment:

AHA stated it believed CMS's estimate of burden associated with this requirement is grossly understated and appears to be based solely on inpatient admissions, with no estimate for outpatient visits. AHA states that hospitals provide about 13 million outpatient visits per year. AHA further states that CMS's numbers appear to be based on specialty hospital volume, which do not reflect the wider range of outpatient services provided in other hospitals, especially rural hospitals.

Response:

We thank AHA for calling to our attention the omission of outpatient visits in the calculation of the PRA burden. We believe AHA made a typographical error in projecting total outpatient visits, since AHA's own statistics suggest a much larger number. We have adjusted the PRA burden estimate for both the physician-ownership disclosure and the physician-availability disclosure to include outpatient visits as well as inpatient admissions.