

Update

# Regulatory



**Payment Rule Summary**

## **Medicare Long- Term Care Hospital Prospective Payment System**

**Proposed Rule Federal Fiscal  
Year 2014**

June 2013

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## Overview

On May 10, 2013, the Centers for Medicare & Medicaid Services (CMS) released the federal fiscal year (FY) 2014 proposed payment rule for the Medicare long-term care hospital prospective payment system (LTCH PPS). The proposed rule reflects the annual update to the Medicare fee-for-service (FFS) LTCH payment rates and policies based on regulatory changes put forward by CMS and legislative changes previously adopted by Congress.

A copy of the proposed rule *Federal Register* and other resources related to the LTCH PPS are available on the CMS Web site at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/index.html>. An online version of the proposed rule is available at <https://federalregister.gov/a/2013-10234>.

A summary of the proposed rule is provided below along with *Federal Register* page references for additional details. Program changes adopted by CMS would be effective for discharges on or after October 1, 2013, unless otherwise noted. Comments on the proposed rule are due to CMS by June 25 and can be submitted electronically at <http://www.regulations.gov> by using the Web site's search feature to search for file code "1599-P."

### Long-Term Care Hospital Payment Rate for Federal FY2014

*Federal Register* pages 27664-27667 and 27777-27778

Incorporating the proposed updates with the effect of budget neutrality adjustments, the table below lists the long-term care hospital (LTCH) standard federal rate for FY2014 compared to the rates currently in effect:

	Final FY2013*	Proposed FY2014	Percent Change
<b>LTCH Standard Federal Rate</b>	\$40,397.96	\$40,622.06	+0.6

\* CMS is using two different LTCH rates during federal FY2013: one took effect on December 29 and the other was in effect from October 1 through December 28. The final FY2013 rate and the percent change shown are based on the rate that took effect on December 29. The rate used from October 1 through December 28 was \$40,915.95.

The table below provides details of the proposed updates for the LTCH standard federal rate for FY2014.

	Proposed LTCH Rate Updates (Percent)
Market Basket (MB) Update	+2.5
Affordable Care Act (ACA)-Mandated Productivity MB Reduction	-0.4
ACA-Mandated Pre-Determined MB Reduction	-0.3
Prospective Budget Neutrality Adjustment Reduction	-1.266
Wage Index Budget Neutrality Adjustment	+0.0433
<b>Overall Rate Change</b>	<b>+0.6</b>

## **Prospective Budget Neutrality Adjustment Reduction for Federal FY2014**

*Federal Register* page 27667

Since the implementation of the LTCH PPS in FY2003, CMS has maintained that it has the statutory authority to apply a prospective (permanent) reduction to the LTCH standard rate in order to neutralize for any increase in aggregate payments that may have occurred as a result of transitioning LTCHs from a cost-based payment system to a PPS. CMS believes that the transition to the prospective payment system in FY2003 increased aggregate payments to LTCHs by 3.75 percent. CMS first suggested applying budget neutrality adjustment reductions to the standard rate in 2007, but legislative moratoria prevented CMS from implementing such a reduction until last year.

Last year, CMS adopted a policy to apply a 3.75 percent prospective budget neutrality adjustment reduction to the LTCH standard rate. The adopted policy phased-in the reduction over a three-year period. For FY2013, CMS applied a 1.266 percent reduction to the rate beginning with discharges occurring on or after December 29, 2012 (legislation prevented CMS from implementing the adjustment prior to December 29). For FY2014, CMS would apply the 1.266 percent reduction for the full federal fiscal year beginning October 1, 2013. It is anticipated that CMS would apply a comparable reduction to the rate in FY2015 to achieve the total adopted 3.75 percent reduction.

## **Effect of Sequestration for Federal FY2014**

*Federal Register* page reference not available

While the proposed rule does not specifically address the 2.0 percent sequester reductions to all lines of Medicare payments authorized by the Budget Control Act (BCA) of 2011 and currently in effect through FY2021, sequester will continue unless Congress intervenes. Sequester is not applied to the payment rate. Instead, it is applied to Medicare claims after determining co-insurance, any applicable deductibles, and any applicable Medicare secondary payment adjustments.

## **Wage Index and Labor-Related Share for Federal FY2014**

*Federal Register* pages 27778-27782

The labor-related portion of the LTCH standard federal rate is adjusted for differences in area wage levels using a wage index. CMS is not proposing any major changes to the calculation of Medicare LTCH wage indexes. As has been the case in prior years, CMS would use the most recent inpatient hospital wage index, the FY2014 pre-rural floor and pre-reclassified hospital wage index, to adjust payment rates under the LTCH PPS for FY2014. A complete list of the proposed wage indexes for payment in FY2014 is available in Tables 12A and 12B on the CMS Web site at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/LTCHPPS-Regulations-and-Notices-Items/LTCH-PPS-CMS-1599-P.html?DLPage=1&DLFilter=2014&DLSort=2&DLSortDir=ascending>. These values will be updated for the final rule.

Based on updates to this year's proposed market basket value, CMS is proposing to reduce the labor-related share of the standard rate from 63.096 percent for FY2013 to 62.717 percent for FY2014. This change would provide slight increases in payments to LTCHs with a wage index less than 1.0.

### **Updates to the Medicare Severity-Long-Term Care-Diagnosis Related Group for Federal FY2014**

*Federal Register* pages 27656-27664

Each year, CMS updates the Medicare Severity-Long-Term Care-Diagnosis Related Group (MS-LTC-DRG) classifications and relative weights. These updates are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. Although the DRGs used to classify patients under the LTCH PPS are identical to those used under the inpatient prospective payment system (IPPS), the relative weights are different for each setting.

CMS is not adopting any major changes to the way the MS-LTC-DRG payment weights are calculated for FY2014. As proposed, when compared to the weights currently in effect, the weights for the top 50 utilized MS-LTC-DRGs (80 percent of cases) are anticipated to change on average by -0.3 percent (with a range of up to -7 percent and +4 percent). The proposed FY2014 MS-LTC-DRGs and weights are available in Table 11 on the CMS Web site at

<https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/LongTermCareHospitalPPS/LTCHPPS-Regulations-and-Notices-Items/LTCH-PPS-CMS-1599-P.html?DLPage=1&DLFilter=2014&DLSort=2&DLSortDir=ascending>.

### **High Cost Outlier Payments for Federal FY2014**

*Federal Register* pages 27782-27783

High cost outlier (HCO) payments were established under the LTCH PPS to provide additional payments for extremely costly cases. Outlier payments are made if the estimated cost of the case exceeds the payment for the case plus a fixed-loss amount. Costs are determined by multiplying the facility's overall cost-to-charge ratio (CCR) by the allowable charges for the case. When a case qualifies for an outlier payment, CMS pays 80 percent of the difference between the estimated cost of the case and the fixed-loss amount.

CMS has established a target of 8.0 percent of total LTCH PPS payments to be set aside for HCOs. To maintain total outlier payments at 8.0 percent of total LTCH PPS payments, CMS would decrease the fixed-loss amount by 8.2 percent from \$15,408 in FY2013 to \$14,139 in FY2014. The decreased threshold amount would increase the number of cases eligible for outlier payments.

### **Short-Stay Outlier Payments for Federal FY2014**

*Federal Register* page reference not available

Short-stay outlier (SSO) payments were established under the LTCH PPS to ensure that LTCH payments, which are predicated on long lengths of stay (LOS), are not applied to cases where the

patient may have received only partial treatment at a LTCH. Currently, the SSO outlier policy applies to cases with a covered LOS of less than or equal to 5/6 of the average LOS for the MS-LTC-DRG. CMS is not proposing any changes to the SSO policy for FY2014. Payments for SSO cases will continue to be based on the lowest of four calculated amounts:

- 1) the full MS-LTC-DRG amount;
- 2) 120 percent of the MS-LTC-DRG per diem;
- 3) 100 percent of cost; or
- 4) 100 percent of the comparable inpatient PPS MS-DRG per diem (CMS implemented this option on December 29, 2012 – prior to December 29, this option allowed for a blend of the comparable IPPS MS-DRG per diem and 120 percent of the MS-LTC-DRG per diem).

### **Application of the 25 Percent Payment Adjustment Threshold Policy for Federal FY2014** *Federal Register* pages 27667-27668

Since 2005, CMS has pursued a policy to reduce LTCH payment amounts to the IPPS amount for LTCHs that admit more than 25 percent of Medicare cases from an onsite or neighboring inpatient acute care hospital. Legislative moratoria delayed the full application of the 25 percent payment adjustment threshold for about five years (through FY2012). The moratoria applied a less restrictive threshold to certain LTCHs and exempts other classes of LTCHs from the threshold altogether. During last year's rulemaking cycle, CMS used its regulatory authority to extend the moratoria for one additional year, through FY2013. CMS is not proposing to extend this relief for FY2014. As a result, full application of the 25 percent payment adjustment threshold would apply for cost reporting periods beginning on or after October 1, 2013. CMS notes that payment methodology changes to the LTCH PPS under consideration by the agency could render the 25 percent payment adjustment threshold policy unnecessary in the future.

### **Updates to the Long-Term Care Hospital Quality Reporting Program** *Federal Register* pages 27720-27734

The ACA required CMS to implement a quality data pay-for-reporting program for providers paid under the LTCH PPS. CMS first adopted measures and policies in the FY2012 rulemaking cycle to implement the Long-Term Care Hospital Quality Reporting (LTCHQR) program and LTCH providers are currently collecting and submitting data on measures specified by CMS. LTCHs that fail to successfully participate in the LTCHQR program receive reduced payments through a reduction of 2.0 percentage points to the LTCH market basket update. CMS will make these payment determinations each year beginning with FY2014.

Details on the previously adopted LTCHQR program measures and rules for FY2014 payment determinations are available in *Federal Register* pages 51743-51756 of FY2012 LTCH PPS final rule at <https://federalregister.gov/a/2011-19719>. Details on the previously adopted LTCHQR program measures and rules for FYs 2015 and 2016 payment determinations are available in *Federal Register* pages 53614-53637 of FY2013 LTCH PPS final rule at <https://federalregister.gov/a/2012-19079>.

CMS is using the FY2014 rulemaking process to propose updated data submission timelines for previously adopted measures that will be used for FY2016 payment determinations. CMS is also proposing new measures and updates for FYs 2017 and 2018 LTCHQR program payment determinations.

For FY2017 payment determinations, CMS is proposing to collect data on a total of eight measures. CMS would retain five measures currently in place and add the following three measures:

- National Healthcare Safety Network (NHSN) facility-wide inpatient hospital-onset Methicillin-Resistant Staphylococcus aureus (MRSA) bacteremia outcome measure (National Quality Forum (NQF) #1716);
- NHSN facility-wide inpatient hospital-onset Clostridium difficile infection (CDI) outcome measure (NQF #1717); and
- All-cause unplanned readmission measure for 30 days post-discharge from LTCHs.

For FY2018 payment determinations, CMS is proposing to collect data on a total of nine measures. CMS would retain eight measures currently in place/proposed and add the following measure:

- Application of the percent of residents experiencing one or more falls with major injury (long stay) (NQF #0674)

Complete details on the proposed LTCHQR program data submission methods and timeframes for federal FYs 2017 and 2018 payment determinations are provided in the *Federal Register* pages referenced above. CMS is also proposing a waiver process to recognize the effect that natural disasters might have on a LTCH's ability to collect and submit quality data. Under the proposal, a LTCH would be required to submit a waiver request within 30 days of the date that the extraordinary circumstance occurred.

### **Future Payment Refinement under the LTCH PPS**

*Federal Register* pages 27668-27676

CMS states in the proposed rule that it plans to pursue payment refinement under the LTCH PPS during next year's rulemaking process (federal FY2015). CMS uses the proposed rule to review the past work of MedPAC and the current work of its contractors on defining and targeting Medicare patients and services that are most appropriate for payment under the LTCH PPS. A detailed description of the types of payment refinement CMS is considering is available on the *Federal Register* pages referenced above. CMS is seeking industry comment on this issue.