

THE CONNECTICUT ASSOCIATION
for *Home Care, Inc*

July 31, 2003

Thomas A. Scully
Administrator
Centers for Medicare & Medicaid Services
Room 443-G Hubert H. Humphrey Building
200 Independence Avenue
Washington, DC 20201

Re: CMS-1473-NC-Medicare Program; Home Health Prospective Payment System
Rate Update for FY 2004 (68 Federal Register 39764), July 2, 2003

Dear Mr. Scully,

On behalf of member home health agencies serving over 47,000 Medicare beneficiaries annually, the Connecticut Association for Home Care is pleased to submit comments on the FY 2004 update notice to the Medicare prospective payment system (PPS) for home health care. Our primary concern is the insufficiency of “outlier” payments - originally intended to compensate home health agencies for costs associated with heavy care patients.

The Connecticut Association for Home Care believes that it is strongly in the interest of Medicare beneficiaries and taxpayers to have the outlier thresholds lowered. Recent data from the Medicare Payment Advisory Commission (MedPAC), for instance, suggests that for some beneficiaries, skilled nursing facility use may be replacing home health use.¹ To the extent that this substitution is due to inadequate payments for high cost home health cases, this is an entirely correctable problem.

As with other Medicare prospective payment systems, outlier payments were created to ensure that the costs of the sickest and most expensive patients were appropriately recognized. When Congress created the home health prospective payment system in the Balanced Budget Act of 1997, it authorized CMS to reduce the standard payment rate by an amount not to exceed five percent to finance the outlier pool. CMS chose to set aside the maximum of five percent for outlier payments – about \$500 million annually taken out of the payment rates. Home health agencies qualify for disbursements from the

¹ Report to Congress: Variation and Innovation in Medicare, Medicare Payment Advisory Commission, June 12, 2003, page 79.

outlier pool for those patients whose (imputed) costs are in excess of the “fixed loss threshold” for a given level of payment. The fixed loss thresholds were projected from a limited sample of 1998 (pre-PPS) data, modified by a number of assumptions that have turned out to be overly conservative (e.g., expected proportion of low utilization cases).²

According to information released by CMS in March, 2002, outlier pool disbursements are only slightly more than half of total spending set aside for outlier payments – a revenue shortfall of at least \$200 million annually.³ The revenue loss for Connecticut home health agencies is at least \$3.4 million annually. Since the outlier methodology guarantees that agencies take a loss on these patients, the actual loss incurred by agencies in caring for outlier patients is much higher than these figures.

Since the implementation of the home health PPS on October 1, 2002, CMS has issued three update notices (FY 2002, 2003 & 2004) – yet there has been no update (i.e., lowering) of the fixed loss outlier threshold. In the FY 2004 rate update notice, CMS responded to a comment about outliers from last year by stating that, “We are still developing the data requested by the commenter.” The response did not address the issues raised by the commenter. It is difficult to fathom why CMS has delayed addressing this important issue in the intervening 16 months since initial PPS impact data first surfaced.

We respectfully urge that the Centers for Medicare & Medicaid Services (CMS) lower the fixed loss threshold for outlier payments prior to implementation of the FY 2004 update to the home health agency PPS on October 1, 2003. Lowering the fixed loss thresholds for outlier payments should not wait until a refinement of the home health prospective payment system. This element of the existing payment system merely needs to be updated to ensure that projected outlier payments for FY 2004 equal the amount already set aside in the payment methodology. At some point in the future, more comprehensive changes to the outlier methodology merit examination in the context of refining the whole home health prospective payment system.

Thank you for consideration of these comments. If you have any questions or comments, please do not hesitate to contact me at (203) 265-9931.

Sincerely,



Brian D. Ellsworth
President & CEO

Cc: Representative Nancy L. Johnson

² See discussion of outliers in Home Health PPS Final Rule, *Federal Register*, Volume 65, Number 128, July 3, 2000, page 41189.

³ Letter from Thomas Hoyer, CMS to Mary St. Pierre, NAHC dated March 18, 2002.

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Val Halamandaris, NAHC
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