shm
Society of Hospital Medicine
Hospitalists. Transforming Healthcare.
Revolutionizing Patient Care.

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September 2, 2014

Marilyn B. Tavenner, Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

Re: CMS 1611-P, Medicare and Medicaid Programs; Home Health Prospective Payment System Rate Update; and Survey and Enforcement Requirements for Home Health Agencies; Proposed Rule.

Dear Administrator Tavenner:

The Society of Hospital Medicine (SHM), representing the nation's nearly 44,000 hospitalists, is pleased to submit the following comments on the CY 2015 Home Health (HH) Prospective Payment System proposed rule. Hospitalists are experts in providing care to hospitalized patients and ensuring safe transitions into and out of the hospital, including transitions into the care of home health and other post-acute providers.

FACE-TO-FACE ENCOUNTER REQUIREMENTS

CMS implemented a face-to-face encounter requirement for patients beginning HH services in January 2011, as required by the Affordable Care Act (ACA). The goal of this policy is to have a non-HH physician verify a beneficiary's eligibility for Medicare's HH benefit. This encounter must occur between 90 days prior to the initiation of services and 30 days after the start of services, and must include a narrative explanation of the patient's homebound status and need for either intermittent skilled-nursing or therapy services. The face-to-face encounter must be performed by the physician certifying a patient's eligibility for the Medicare HH benefit (or by a non-physician practitioner working with the physician). Alternatively, the face-to-face encounter may be provided by a physician (or non-physician practitioner) who cared for the patient in a general acute-care hospital or post-acute facility and who communicates the clinical findings of the encounter to the certifying physician. Both physicians and HH agencies have been confused by and have struggled to comply with the face-to-face encounter and supporting narrative requirement.

SHM supports CMS's proposal to eliminate the requirement that a face-to-face encounter include the physician narrative explanation. Instead of the narrative, CMS is proposing to review the medical record to support the physician's certification of patient eligibility. In theory, this will facilitate smoother transitions for hospitals discharging patients to home care and for hospital-based HH agencies initiating services. Part of the problem surrounding the original narrative requirement is that it created excessive burden within the already busy workflow of practicing hospitalists.

However, SHM is concerned that if not done carefully, rather than reducing burden, this proposal may only serve to shift the narrative burden into the medical record. Based on the proposal, it is unclear what, if any additional information would need to be included in the medical record. Although CMS states details will be forthcoming in sub-regulatory guidance, SHM cautions that the piecemeal sub-regulatory approach taken with the original narrative requirement was generally difficult for stakeholders to follow and contributed to further confusion on when and how the narrative needed to be written.

To address these concerns, SHM encourages CMS to explore a flexible, phased-in approach that would allow physicians the option to use a process similar to the current certifications, while still eliminating the narrative requirement, or allow certifying physicians to use the medical record. This could be coupled with ways to simplify the current certification that will allow CMS to ensure the necessity of home health care while minimizing the documentation burden. For example; checkboxes could be used in place of a written narrative, only require documentation that encounter occurred, etc.

CMS should also engage in concerted outreach to the stakeholders impacted by these changes to ensure that physicians are aware of the potential impact on their practices and patients and to reinforce clarity on what is and what is not required. This would allow CMS to learn over time how best to capture or find the necessary information from the medical record before requiring it as the only acceptable form of information.

SHM is strongly opposed to conditioning physician payment for certifications on whether the patient is found to be eligible for home health care. Audits of HH medical necessity should be based on the documentation found in HH agencies' medical records rather than basing payment for physician HH certifications on the status of a separate provider's home health claim. Much of the resistance to the narrative requirement is arising from increased burden and confusion on the part of both physicians and HH providers. CMS should wait and see if the reduced burden and increased clarity of this proposal increases compliance before taking this additional step. Should lifting of the narrative requirement fail to increase compliance, it may then be reasonable for CMS to look at other avenues to increase compliance. Further, SHM cautions that any changes to physician payment must be made through the formal rulemaking process to ensure all stakeholders are aware of this proposed change in its entirety and have the opportunity to submit public comments.

SHM supports CMS' goal of ensuring appropriate beneficiary access to care and reducing fraud and abuse in the Medicare program. We appreciate your effort to address this issue while taking into consideration the perspective of and additional burden being placed on clinicians. If you have any further questions or concerns, please do not hesitate to contact Josh Boswell, Director of Government Relations at jboswell@hospitalmedicine.or or 267-702-2632.

Sincerely,

Burke T. Kealey, MD, SFHM
President, Society of Hospital Medicine