

Via electronic submission to <http://www.cms.hhs.gov/regulations/ecomments>

July 18, 2005

Mark McClellan, M.D., Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1290-P
P.O. Box 8010
Baltimore, Maryland 21244-8010

Re: Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for FY 2006;
Proposed Rule [CMS – 1290- P]

Dear Doctor McClellan:

The American Occupational Therapy Association (AOTA) represents approximately 35,000 occupational therapy professionals, many of whom provide rehabilitation services to Medicare beneficiaries in Inpatient Rehabilitation Facilities (IRFs). We appreciate the opportunity to comment on the proposed changes affecting payment and policies under the prospective payment system (PPS) for IRFs. This proposed rule was published in the *Federal Register* on May 25, 2005 (70 Fed. Reg. 30188).

The proposed rule sets forth significant refinements to the IRF PPS. These refinements include:

- Reduction of the conversion factor by 1.9%
- Revisions of the geographic classification by substituting new geographical local market areas based upon core-based statistical areas instead of metropolitan statistical areas
- Inclusion of a teaching status adjustment for teaching hospitals
- Modification of the low income patient adjustment
- Lowering the outlier threshold, which would permit approximately 3% of the IRF PPS payments to be used for outlier cases

Significant revisions to the clinical case mix groups (CMGs), including reducing the number of CMGs, redefining the CMGs, and updating the relative weights assigned to the CMGs

- Changes to the target lengths of stay (LOS)
- Changes to the list of comorbidities
- Changes to the methodology used to calculate a functional independent measures (FIM) motor score
Changes in scoring the FIM item of toilet transfers
- Changes to the definition of rural location, resulting in a reclassification of some IRFs as rural facilities

These refinements are slated to be adopted just months after the classification criteria requirements (“the 75% rule,” see 70 Fed. Reg. 26640) for the total inpatient population of IRFs have been implemented and are being enforced, which are creating substantial burdens on IRFs. The enforcement of the outdated limitations on the types of patients that IRFs can treat is likely to have a significant impact on beneficiary’s access to medically necessary intensive therapy services. Implementing such a large number of changes to the IRF PPS, as

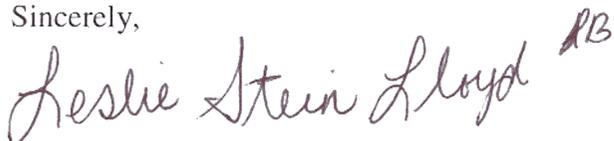
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proposed by this rule, at the same time as facilities grapple with the stringent enforcement of the "75% rule" threatens to overwhelm these facilities and, most importantly, may result in further restrictions to beneficiaries' access to rehabilitation care in IRFs. AOTA suggests that CMS delays implementation of the IRF PPS refinements until the industry is better equipped to deal with this onslaught of regulatory changes and with the full impact of the unyielding implementation of the "75% rule."

The AOTA requests that due consideration be given to these comments. Thank you, again, for the opportunity to comment on this Proposed Rule. We look forward to a continuing dialogue with CMS on these issues as they apply to occupational therapy.

Sincerely,

 RB

Leslie Stein Lloyd, Esq.

Director

Reimbursement and Regulatory Policy Department