Proposed Rule Would Slash Medicare Payment for 340B Drugs

Thursday, July 20, 2017

The Centers for Medicare and Medicaid Services (CMS) has proposed reducing the Medicare payment rate to hospitals for most separately payable drugs purchased under the 340B program from average sales price (ASP) plus six percent to ASP minus 22.5%. This reimbursement cut — almost 30% in the aggregate— would significantly reduce the savings available to 340B participating providers. The eventual impact could be even greater if private insurers react by following Medicare’s example and reducing drug payments to 340B participating hospitals. No changes have been proposed for 340B covered entities that are not hospitals.

What Does the Proposed Rule Mean for Hospitals?

Currently, all hospitals other than critical access hospitals are paid the ASP-plus-six-percent rate for separately payable drugs under the Medicare hospital outpatient prospective payment system (OPPS). The rate does not vary based on participation in the 340B program. The proposed rule would require hospitals to identify, through a new modifier, when a drug was not purchased under the 340B program; in the absence of the modifier, CMS would presume that separately payable drugs had been acquired under 340B and pay ASP minus 22.5%. The payment reduction would not apply to drugs on pass-through status or vaccines.

What are the Broader Implications for the 340B Program?

The proposed Medicare change could spell trouble for 340B covered entities if it signifies support for further changes to limit the scope of the 340B program. In explaining the proposal, CMS stated its concern about “the growth in the number of providers participating in the 340B program and recent trends in high and growing prices of several separately payable drugs administered under Medicare Part B to hospital outpatients.” CMS also indicated dissatisfaction with high beneficiary copayments, which are set at 20% of the Medicare payment rate.

CMS determined the new rate based on the estimate in a 2015 MedPAC report to Congress that, on average, hospitals in the 340B program receive a minimum discount of 22.5% off the ASP for drugs paid under the OPPS. In the past, MedPAC has recommended to Congress more modest Part B drug payment cuts to hospitals for 340B drugs of 10 percent. CMS noted this previous MedPAC recommendation—as well as alternative proposals by the Office of Inspector General (OIG) to share 340B savings between Medicare and providers—without fully explaining why it was instead proposing a more aggressive payment cut.

Comment Period is Now Open

CMS has requested comments on the proposal by September 11, 2017. The agency has asked in particular for feedback on the analysis in the 2015 MedPAC report, whether the payment change should be phased in over time, whether exceptions should be established for certain hospitals or drugs, and whether CMS should apply all or part of the savings generated by the payment reduction to payment increases that target hospitals that treat a large share of indigent patients. Given the significant financial impact that this change would have on 340B participating hospitals, it would benefit participating providers to communicate to CMS how the change would...
impact their ability to deliver care to the low-income and underserved populations that the 340B program is designed to benefit.

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