DINGUS | ZARECOR & ASSOCIATES PLLC
Certified Public Accountants

Proposed 2018 IPPS Rule

As a condition of payment, Medicare will pay for an inpatient stay at a critical access hospital (CAH) if a physician certifies that the "individual may reasonably be expected to be discharged or transferred to a hospital within 96 hours after admission to the CAH."

As a condition of participation in the Medicare program, CAHs must have an average length of stay of less than 96 hours.

When the CAH program began, both the conditions of participation and the conditions of payment had a per-patient 96-hour cap. Congress passed an act that changed the 96-hour rule from a per-patient cap to an average of 96 hours. When that change passed Congress, the change was made specifically to the conditions of participation and not to the conditions of payment. Therefore, the change (whether purposefully or due to a drafting error) was only made to the conditions of participation.

In its 2018 proposed IPPS rule, CMS issued a statement to the Recovery Audit Contractors (RAC), Quality Improvement Organizations (QIOs), and Medicare Administrative Contractors (MACs) to make review of the 96-hour certification a "low priority."

This direction is likely a welcome change to many CAHs. However, it does not alter the actual requirement. We believe that the CAH community should continue to work with their state and federal hospital associations to get the underlying law fixed. A letter should be drafted to your state hospital association and to the American Hospital Association (AHA) stating CMS' direction is not a solution. The associations should continue to seek legislative change.

Only Congress change the underlying law, and therefore, it is Congress with whom we should be working to see a final change to the regulation.

RAC, QIO, or MAC auditors can still look for certification issues. Further, the "low priority for review" does not extend to the Office of the Inspector General, Department of Justice, or Zone Program Integrity Contractors.