

modify quality measures in the IPFQR Program to allow for public comment.

(i) *Factors for consideration in removal or replacement of quality measures.* CMS will weigh whether to remove or modify measures based on the following factors:

(A) Factor 1: Measure performance among IPFs is so high and unvarying that meaningful distinctions and improvements in performance can no longer be made;

(B) Factor 2: Measure does not align with current clinical guidelines or practice;

(C) Factor 3: Measure can be replaced by a more broadly applicable measure (across settings or populations) or a measure that is more proximal in time to desired patient outcomes for the particular topic;

(D) Factor 4: Measure performance or improvement does not result in better patient outcomes;

(E) Factor 5: Measure can be replaced by a measure that is more strongly associated with desired patient outcomes for the particular topic;

(F) Factor 6: Measure collection or public reporting leads to negative unintended consequences other than patient harm;

(G) Factor 7: Measure is not feasible to implement as specified; and

(H) Factor 8: The costs associated with a measure outweigh the benefit of its continued use in the program.

(ii) *Retention.* CMS may retain a quality measure that meets one or more of the measure removal factors described in paragraph (i) of this subsection if the continued collection of data on the quality measure would align with other CMS and HHS policy goals, align with other CMS programs, or support efforts to move IPFs toward reporting electronic measures.

(f) *Extraordinary circumstances exception.* CMS may grant an exception to one or more data submissions deadlines and requirements in the event of extraordinary circumstances beyond the control of the IPF, such as when an act of nature affects an entire region or locale or a systemic problem with one of CMS's data collection systems directly or indirectly affects data submission. CMS may grant an exception as follows:

(1) Upon request by the IPF.

(2) At the discretion of CMS. CMS may grant exceptions to IPFs that have not requested them when CMS determines that an extraordinary circumstance has occurred.

(g) *Public reporting of IPFQR Program data.* Data that an IPF submits to CMS for the IPFQR Program will be made publicly available on a CMS website after providing the IPF an opportunity to review the data to be made public. IPFs will have a period of 30 days to review and submit corrections to errors resulting from CMS calculations prior to the data being made public.

[88 FR 51161, Aug. 2, 2023]

§ 412.434 Reconsideration and appeals procedures of Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program decisions.

(a) An inpatient psychiatric facility may request reconsideration of a decision by CMS that the inpatient psychiatric facility has not met the requirements of the IPFQR Program for a particular fiscal year. An inpatient psychiatric facility must submit a reconsideration request to CMS no later than 30 days from the date identified on the IPFQR Program Annual Payment Update Notification Letter provided to the inpatient psychiatric facility.

(b) A reconsideration request must contain the following information:

(1) The inpatient psychiatric facility's CMS Certification Number (CCN);

(2) The name of the inpatient psychiatric facility;

(3) Contact information for the inpatient psychiatric facility's chief executive officer and QualityNet security official, including each individual's name, email address, telephone number, and physical mailing address;

(4) A summary of the reason(s), as set forth in the IPFQR Program Annual Payment Update Notification Letter, that CMS concluded the inpatient psychiatric facility did not meet the requirements of the IPFQR Program;

(5) A detailed explanation of why the inpatient psychiatric facility believes that it complied with the requirements of the IPFQR Program for the applicable fiscal year; and

(6) Any evidence that supports the inpatient psychiatric facility's reconsideration request, such as emails and other documents.

(c) An inpatient psychiatric facility that is dissatisfied with a decision made by CMS on its reconsideration request may file an appeal with the Provider Reimbursement Review Board under part 405, subpart R of this chapter.

[77 FR 53678, Aug. 31, 2012, as amended at 86 FR 42678, Aug. 4, 2021]

Subpart O—Prospective Payment System for Long-Term Care Hospitals

SOURCE: 67 FR 56049, Aug. 30, 2002, unless otherwise noted.

§ 412.500 Basis and scope of subpart.

(a) *Basis.* This subpart implements the following:

(1) Section 123 of Public Law 106-113, which provides for the implementation of a prospective payment system for long-term care hospitals described in section 1886(d)(1)(B)(iv) of the Act.

(2) Section 307 of Public Law 106-554, which states that the Secretary shall examine and may provide for appropriate adjustments to that system, including adjustments to DRG weights, area wage adjustments, geographic reclassification, outliers, updates, and disproportionate share adjustments consistent with section 1886(d)(5)(F) of the Act.

(3) Section 114 of Public Law 110-173, which contains several provisions regarding long-term care hospitals, including the—

(i) Amendment of section 1886 of the Act to add a new subsection (m) that references section 123 of Public Law 106-113 and section 307(b) of Public Law 106-554 for the establishment and implementation of a prospective payment system for payments under title XVIII for inpatient hospital services furnished by a long-term care hospital described in section 1886(d)(1)(B)(iv) of the Act; and

(ii) Revision of the standard Federal rate for RY 2008.

(4) Section 4302(a) of Public Law 111-5, which amended sections 114(c) and

(d) of Public Law 110-173 relating to several moratoria on the establishment of new long-term care hospitals and satellite facilities and on the increase in the number of beds in existing long-term care hospitals and satellite facilities under the long-term care hospital prospective payment system.

(5) Sections 3106(a) and 10312(a) of Public Law 111-148, which extended certain payment rules and moratoria under the long-term care hospital prospective payment system by further amending sections 114(c) and (d) of Public Law 110-173.

(6) Section 1206 of Public Law 113-67, which further extended certain payment rules and moratoria under the long-term care hospital prospective payment system by amending sections 114(c) and (d) of Public Law 110-173, and which:

(i) Added a new section 1886(m)(6) to the Act to establish a site neutral payment amount for long-term care hospital discharges that fail to meet the applicable criteria in cost reporting periods beginning on or after October 1, 2015; and

(ii) Requires the Secretary's review of the payment rates and regulations governing long-term care hospitals established under section 1886(d)(1)(B)(iv)(II) of the Act and application of payment adjustments based on that review.

(7) Section 411 of Public Law 114-10 which revises the annual update to the LTCH PPS standard Federal payment rate in FY 2018.

(8) Public Law 114-255 which at—

(i) Section 15004 amended the moratorium on increasing beds in existing LTCHs and LTCH satellite facilities and amended high cost outlier payment requirements;

(ii) Section 15006 amended moratoria on certain payment policies;

(iii) Section 15007 amended the average length of stay requirements;

(iv) Section 15009 temporally excepted certain spinal cord specialty hospitals from the site neutral payment rate; and

(v) Section 15010 temporally excepted certain wound care discharges from certain LTCHs from the site neutral payment rate.