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CLIENT ADVISORY

November 10, 2015

CMS Issues Proposed Rule to Revise Requirements for Discharge Planning in Hospitals, Critical Access Hospitals, and Home Health Agencies

On November 3, 2015, the Centers for Medicare and Medicaid Services (“CMS”) released a proposed rule, revising the discharge planning requirements that Hospitals, including Long-Term Care Hospitals and Inpatient Rehabilitation Facilities, Critical Access Hospitals (“CAHs”), and Home Health Agencies (“HHAs”) must meet to participate in the Medicare and Medicaid programs. The proposed rule also implements the discharge planning requirements of the Improving Medicare Post-Acute Care Transformation Act (“IMPACT Act”) of 2014.

By providing more concrete requirements of the steps that must be taken prior to the patient’s discharge or transfer to a post-acute care (“PAC”) setting, the proposed rule is intended to aid in reducing the number of avoidable hospital readmissions, improve the quality and safety of patient care, and lower health care costs.

I. Revisions to Discharge Planning Requirements

The proposed rule modifies existing discharge planning requirements contained in the Conditions of Participation, as well as imposes new criteria for discharge planning on hospitals, CAHs, and HHAs. Most significantly, the proposed rule establishes a new requirement for discharge planning, applicable to hospitals and CAHs, extending the requirement to evaluate discharge needs to all inpatients and certain categories of outpatients, including patients receiving observation services, patients undergoing surgery or other same-day procedures where anesthesia or moderate sedation is used, and any other category of outpatient as recommended by medical staff as needing a discharge plan.

Under the proposed rule, hospitals, CAHs, and HHAs are required to develop and specify in writing a new discharge planning process. The planning process must be reviewed and approved by the appropriate governing body or responsible person. The process must be assessed and evaluated for improvements on an on-going basis. The planning process must also include a procedure to follow-up with patients following discharge.

CMS has stated that the discharge plan must be developed in collaboration with the patient, the patient’s caregiver/support person, the practitioner responsible for the patient’s care, and the pertinent personnel. Under the proposed rule, the discharge plan is required to:

- Address the patient’s goals and treatment preferences;
- Include written instructions documenting follow-up care, appointments, pending or planned diagnostic tests, and pertinent telephone numbers;
- Provide information on the care duties the patient’s caregiver/support person must perform, based on the patient’s specific needs;
- Specify the warning signs and symptoms that would require additional care;
- List and reconcile all medications, including over-the-counter medications that the patient must use following discharge.

Given the provisions the discharge plan must contain, CMS has indicated that the process for preparing the discharge plan should begin fairly early. The proposed rule suggests that a hospital or CAH should begin to identify

anticipated discharge needs for each patient within 24 hours of admission or registration. For HHAs, specific time frames must be developed through the discharge planning process for evaluating the patient's discharge needs, documenting the evaluation in the patient's clinical record, and completing the discharge plan.

Under the proposed rule, hospitals, CAHs, and HHAs must also assist patients in obtaining the appropriate follow-up care. CMS has stated that hospitals, CAHs, and HHAs are expected to be well-informed on the availability of community-based services and organizations, and be able to provide information on non-health care resources and social services. Furthermore, hospitals, CAHs, and HHAs must assist patients in selecting an appropriate PAC provider, by using and sharing data, including HHA, SNF, IRF, or LTCH data on quality measures and data on resource use measures. CMS will expand on the definitions of quality measures in forthcoming regulations and guidance materials.

II. Requirements when Transferring Patients to another Health Care Facility

CMS' proposed rule is intended to ensure the timely communication of necessary clinical information. Under the proposed rule, the following information must be provided by the hospital, CAH, or HHA, to the receiving facility or health care practitioner:

- Demographic information, such as name, sex, date of birth, race, ethnicity, and preferred language;
- Contact information for the practitioner responsible for the patient's care;
- Advance Directive, if applicable;
- Course of illness/treatment;
- Procedures;
- Diagnoses;
- Laboratory tests and the results of other pertinent laboratory and other diagnostic testing;
- Consultation results;
- Functional status assessment;
- Psychosocial assessment, including cognitive status;
- Social supports;
- Behavioral health issues;
- Reconciliation of all discharge medications;
- All known allergies, including medication allergies;
- Immunizations;
- Smoking Status;
- Vital signs;
- Unique device identifier(s) for the patient's implantable device(s), if any;
- All special instructions or precautions for ongoing care, as appropriate;
- Patient's goals and treatment preferences; and
- All other necessary information to ensure a safe and effective transition of care that supports the post-discharge goals for the patient.

A copy of the patient's discharge instructions and any other documentation required to support a safe transition of care must also be provided.

Comments to the proposed rule must be submitted to CMS by 5:00 p.m. on January 4, 2016. If you have any

questions about CMS' proposed rule or how these policy changes may affect your organization, please contact Mary Malone (mmalone@hdjn.com), Emily Towey (etowey@hdjn.com), or Megan Dhillon (mdhillon@hdjn.com) at (804) 967-9604. Additional information about Hancock, Daniel, Johnson & Nagle, P.C. is available on the firm's website at www.hdjn.com.

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