

GRADUATE MEDICAL EDUCATION HIGHLIGHTS: 2019 INPATIENT PROSPECTIVE PAYMENT SYSTEM PROPOSED RULE

On May 7, 2018, CMS published its inpatient prospective payment system (“IPPS”) proposed rule (“Proposed Rule”). The Proposed Rule addresses a variety of provider topics, and this article discusses three noteworthy issues related to graduate medical education (“GME”).

First, CMS announced the next two rounds of GME slot redistribution through the closed hospital slot redistribution program as outlined in the Affordable Care Act Section 5506. The deadline is July 23, 2018 for interested hospitals to apply for the slots made available by the closure of two hospitals. Second, CMS proposed changing the regulations addressing data submissions made through the Intern and Resident Information System (“IRIS”) to require cost reports and IRIS data to contain the same total counts of direct GME (“DGME”) and indirect medical education (“IME”) full-time equivalent (“FTE”) residents. If the IRIS and cost report resident counts don’t match, CMS proposes that the cost reports are to be rejected. Third, CMS proposed making a change to the policy regarding new urban teaching hospitals’ participation in Medicare GME affiliated group agreements. Currently, new urban teaching hospitals that build DGME and IME caps may only enter into a Medicare GME affiliated group agreement to receive additional GME slots. The proposal would permit new urban teaching hospitals to loan slots to other new urban teaching hospitals (and only other new urban teaching hospitals) beginning on July 1, 2019. Hospitals with teaching programs should make note of these developments and consider whether further action or comment submission to CMS is necessary.

The full text of the proposed rule can be found [here](#).

GME REDISTRIBUTION AFTER TWO HOSPITAL CLOSURES

In the Proposed Rule, CMS announced that the deadline for applications for the next two rounds to the closed hospital slot redistribution program is July 23, 2018. The closure of Affinity Medical Center in Massillon, Ohio resulted in 22.36 IME slots and 22.48 DGME slots to be redistributed by CMS during Round 11. The closure of Baylor Scott & White Medical Center – Garland in Garland, Texas resulted in 12.52 IME slots and 13.53 DGME slots to be redistributed by CMS during Round 12. Hospitals may apply to either or both rounds of the redistribution (assessment of the award criteria before submitting is prudent), and applying hospitals must submit a separate application for each round. Aside from the hard copy application mailed to the CMS Central Office, CMS advises hospitals to email a notification to the CMS Central Office when mailing an application. Information on the prior 10 hospital closure cap distribution rounds which is instructive can be found [here](#).

PROPOSAL REGARDING HOSPITAL FTE COUNT SUPPORTING DOCUMENTATION

CMS proposes to revise 42 C.F.R. § 413.24(f) and other regulations related to the submission of IRIS data. Established to ensure that no resident is counted by the Medicare program as more than 1.0 FTE in the calculation of all payments for DGME and IME, the IRIS data is required to be submitted with the provider’s cost report.

The Proposed Rule requires that the resident count from the IRIS data correspond exactly with the DGME and IME FTE counts in the cost report counts submitted by hospitals. CMS indicated its view that “it is necessary and appropriate to require that the total unweighted and weighted FTE counts on the IRIS for direct GME and IME respectively, for all applicable allopathic, osteopathic, dental, and podiatric residents that a hospital may train, must equal the same total unweighted and weighted FTE counts for direct GME and IME reported on Worksheet E-4 and Worksheet E, Part A.” 83 F. R. 20546. Hospitals that do not have corresponding IRIS data and cost report information for residents and their DGME and IME would face rejection of the cost report for lack of documentation of the activities performed. “When the cost report is rejected, it is deemed an unacceptable submission and treated as if a report had never been filed.” 42 CFR 413.24(f)(5)

This changes is proposed to take effect for cost reports filed on or after October 1, 2018. Providers should assess their IRIS data and cost reports and possibly consider commenting on the rule proposal if congruence between the data systems has not been historically indicated. The comment period on the Proposed Rule ends on June 25, 2018.

PROPOSAL REGARDING AFFILIATIONS BETWEEN NEW URBAN TEACHING HOSPITALS

CMS also proposes to revise 42 C.F.R. § 413.79(e)(1)(iv) to permit **new urban teaching hospitals** to loan their own slots **to other new urban teaching hospitals** through participation in Medicare GME affiliated group agreements, effective July 1, 2019. Currently under the applicable regulations at 42 C.F.R. § 405.105(f)(1)(vii) and 42 C.F.R. § 413.79(f)(1), any new urban teaching hospital that builds DGME and IME caps may only enter into a Medicare GME affiliated group agreement **to receive** slots from other hospitals. Up to this point, these new urban teaching hospitals had not been able to loan slots to other hospitals. However, because CMS does not wish to preclude affiliations intended to facilitate additional and cross training at new teaching hospitals it is proposing the regulatory revisions summarized here. The proposal still prohibits new urban teaching hospitals from loaning slots to existing teaching hospitals (hospitals that established FTE caps under the original BBA process, meaning hospitals with GME caps set during the 1996 base year), to prevent slot “gaming.”

PRACTICAL TAKEAWAYS AND RECOMMENDATIONS

Teaching hospitals in and around Garland, Texas and Massillon, Ohio (and beyond, as geography is not the only ranking criteria used by CMS) should consider whether any potential benefit might be achieved by adding additional GME FTE slots and whether an application should be submitted. All teaching hospitals may want to assess their internal processes for ensuring that their cost report FTE counts and IRIS data reflect the same total counts for DGME and IME FTE. As noted above, any comments to the Proposed Rule must be received by CMS no later than June 25, 2018.

If you have any questions or would like additional information about this topic, please contact:

- **Kristen H. Chang** at (414) 721-0923 or kchang@hallrender.com;
- **Scott J. Geboy** at (414) 721-0451 or sgeboy@hallrender.com;
- **Adele Merenstein** at (317) 752-4427 or amerenstein@hallrender.com;
- **Kiel J.M. Zillmer** at (414) 721-0918 or kzillmer@hallrender.com; or
- Your regular Hall Render attorney.