

PROPOSAL TO CHANGE THE SCORING METHODOLOGY FOR THE HOSPITAL MEDICARE VALUE-BASED PURCHASING PROGRAM TO ADDRESS HEALTH EQUITY

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US Health Care and FDA Alert

The 1 May 2023 Federal Register contains a proposal from the Centers for Medicare & Medicaid Services (CMS) to revise the scoring methodology under the Hospital Value-Based Purchasing Program (Hospital VBP Program) as part of its Inpatient Prospective Payment Systems (IPPS) and Long-Term Care Hospital Prospective Payment System (LTCHPPS) Proposed Rule for FY 2024.¹ The proposed changes include the following major changes that impact a participating hospital's score:

- The maximum Total Performance Score (TPS) would be increased to 110;
- This increase includes possibility of 16 additional Health Equity Adjustment (HEA) bonus points;
- The maximum HEA bonus points added to a hospital's TPS for a program year would be capped at 10; and
- This new methodology would be effective in FY 2026.

In making this proposal, CMS references a key finding:

Dual enrollment status (that is, enrollment in both Medicare and Medicaid) is a strong predictor of poorer healthcare outcomes in Medicare's VBP programs, even when accounting for other social and functional risk factors. Dual enrollment status, an indicator at the individual level, also represents one way to capture common socioeconomic challenges that could affect an individual's ability to access care.²

CMS is also asking for feedback on potential additional future changes to the Hospital VBP Program scoring methodology that would address health equity. CMS defines 'health equity' as "the attainment of the highest level of health for all people, where everyone has a fair and just opportunity to attain their optimal health regardless of race, ethnicity, disability, sexual orientation, gender identity, socioeconomic status, geography, preferred language, or other factors that affect access to care and health outcomes."³

Under the HEA bonus proposal, up to four bonus points would be available across each of the four existing performance domains for the Hospital VBP Program: (i) clinical outcomes, (ii) person and community engagement, (iii) safety, and (iv) efficiency and cost reduction. In total, a hospital could earn 16 new bonus points, however, the number of HEA bonus points that could be added to a hospital's TPS for a program year would be capped at 10 HEA bonus points.

CALCULATION OF HEA BONUS POINTS

HEA bonus points would be calculated as the product of a hospital's performance ranking (Measure Performance Scaler) and a multiplier intended to capture treatment of underserved populations (Underserved Multiplier) as measured by the proportion of inpatient stays for patients with dual eligibility status (DES).

The calculation is a multi-step process:

Step One

Calculate the Measure Performance Scaler points for each hospital. As stated above, CMS would assign a Measure Performance Scaler to each domain based on a hospital's domain level scores. CMS would assign point values to hospitals for each domain based on their performance on the measures in that domain. A hospital would receive 4, 2, or 0 points for top third, middle third, or bottom third of performance, respectively, on each domain. The maximum score in step one could be 16 scaler points.

Step Two

Calculate the Underserved Multiplier. The Underserved Multiplier is determined using the following formula:

Underserved Multiplier = Logistic Function (Number of Inpatient Stays for Patients with DES/Total Medicare Inpatient Stays)

This step in the calculation would be based on patient level data of all Medicare FFS and Medicare Advantage inpatient stays in a hospital in which the patient was dually eligible for Medicare and full Medicaid benefits during the calendar year two years prior to the Hospital VBP Program year. A stay would be defined as dually eligible if it is for a patient with Medicare and full Medicaid benefits for the month the patient was discharged from the hospital, unless the patient died in the month of discharge, in which case DES is determined using the previous month.

Step Three

Calculate the hospital's health equity bonus by multiplying the measure performance scaler points total by the underserved multiplier.

CHANGES ALIGN WITH EMPHASIS ON HEALTH EQUITY ACROSS PROGRAMS

This attention to health equity is reflective of CMS's increased focus on health equity and is consistent with what we have seen from other value-based models, including the recent adoption of a similar health equity adjustment for the Medicare Shared Savings Program and similar proposal in the FY 2024 Skilled Nursing Facility Value-Based Purchasing Program Prospective Payment System proposed rule.⁴

Additional proposed changes to the Hospital VBP Program in the Proposed Rule include the following:

Beginning in FY 2026

- Adopting a new measure for sepsis care (i.e., the Severe Sepsis and Septic Shock: Management Bundle measure).⁵

Beginning in FY 2027

- Updating certain data collection and submission requirements for the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey measure, including adding new web-based options.⁶

Beginning in FY 2028

- Refining the CMS tool that measures hospitals' efficiency by comparing how much Medicare pays for an inpatient stay at a given hospital to hospitals nationally (i.e., the Medicare Spending per Beneficiary Hospital measure) with updates to:
 - Allow readmissions to trigger new episodes;
 - Create a new indicator variable in the risk adjustment model for whether there is an inpatient stay within the 30 days prior to the episode; and
 - Change the calculation methodology of observed costs from a ratio of sums to a mean of ratios.⁷

Beginning in FY 2030

- Updating the Hospital-Level Risk-Standardized Complication Rate following elective primary total hip arthroplasty and/or total knee arthroplasty to include certain modifications, including the inclusion of index admission diagnoses and in-hospital comorbidity data from Part A claims.⁸

CONCLUSION

In addition to requesting feedback on the specific proposals outlined above, CMS has more generally requested stakeholder feedback on additional health equity changes to the Hospital VBP Program scoring methodology for future consideration.

The deadline for submitting comments is 9 June 2023.

K&L Gates' Health Care and FDA practice routinely assists health systems, hospitals, and other providers and suppliers with legal advice and strategic considerations, including providing advice on enrollment, certification, and reimbursement matters and assisting clients with public comments on proposed and final rulemakings. Contact the authors of this article or another K&L Gates lawyer for assistance with the IPPS Proposed Rule, the Hospital VBP Program or other health equity matters.

FOOTNOTES

¹ Medicare Program; Proposed Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2024 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Rural Emergency Hospital and Physician-Owned Hospital Requirements; and Provider and Supplier Disclosure of Ownership, Centers for Medicare & Medicaid Services, 88 Fed. Reg. 26658, 27036 (May 1, 2023) (hereinafter, the Proposed Rule).

² *Id.* at 27039.

³ *Id.* at 27040.

⁴ Proposed Rule at 27041.

⁵ *Id.* at 27027.

⁶ *Id.* at 27113.

⁷ *Id.* at 27025.

⁸ *Id.* at 27026.

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