

Title of Rule: Revision to the Medical Assistance Finance Office Payment Reform Section
Hospital Services Rule Concerning definition for Trim Point Day, Section 8.300.1
Rule Number: MSB 15-11-20-A
Division /Contact/Phone: Finance/Payment Reform/Diana Lambe 303.866.5526

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

Rule Change being requested: Trim Point Day (Outlier Threshold Day) means the day which would occur ~~1.94~~ 2.58 standard deviations above the mean (average) length of stay (ALOS) for each DRG (Diagnosis Related Group).

Quick Overview: The fact of the matter is that this definition should have been updated in 1/1/2014 when the Department introduced APR-DRGs (All Patient Refined DRGs) to the Inpatient Hospitals Prospective Payment System.

The 1.94 standard deviations were related to when the Department had CMS-DRGs (Centers for Medicare and Medicaid DRG – largely senior patient population). During the implementation of APR-DRGs (patient population consists of all ages), stakeholders were made aware of and given opportunity to comment on the 2.58 standard deviations that were ultimately used on May 2, 2013.

When and why should rule be changed? The reason the Department altered the standard deviation in 1/1/2014 when changing from CMS-DRGs was because APR-DRGs offered the additional Severity of Illness calibration which was missing from CMS-DRGs. This additional criteria allowed for longer stays in hospital for those who were deemed “sicker” than others thereby eliminating the one size fits all approach per DRG the Department had with CMS-DRGs. This rule needs to be updated as soon as possible in order for rule to reflect actual practice.

Stakeholder feedback: We do not anticipate any concern from stakeholders since this change has been vetted back in May 2013 and in practice for several years now.

Budgetary Impact: None. The implementation of APR-DRGs in 1/1/2014 were implemented in a budget neutral manner.

An emergency rule-making is imperatively necessary

- to comply with state or federal law or federal regulation and/or
- for the preservation of public health, safety and welfare.

Explain:

Initial Review
Proposed Effective Date

02/12/2016 Final Adoption
04/30/2016 Emergency Adoption

03/11/2016

DOCUMENT #06

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2. Federal authority for the Rule, if any:

42 C.F.R. 412

3. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015); 25.5-4-401, CRS (2015)

Initial Review

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

There should be no ill-effects of this rule change since APR-DRGs were implemented in a budget neutral manner. This is a technical update to the rule to correct a prior oversight. Implementation of the 2.58 standard deviations occurred in 2014, so the correction of this error will not result in costs or benefits to stakeholders.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The reason the Department altered the standard deviation in 1/1/2014 when changing from CMS-DRGs was because APR-DRGs offered the additional Severity of Illness calibration which was missing from CMS-DRGs. This additional criteria allowed for longer stays in hospital for those who were deemed "sicker" than others thereby eliminating the one size fits all approach per DRG the Department had with CMS-DRGs. These changes were implemented in 2014, so correction of the rule now will have no effect on any class of person.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

APR-DRGs were implemented in a budget neutral manner on 1/1/2014. This rule is merely a correction to bring the regulation into alignment with current practice. It will not result in any additional costs to the Department or any other agency.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The cost of inaction is the potential for a challenge to current reimbursement practices based on the erroneous rule. There is no benefit to inaction. No costs are associated with correcting to the rule to align with current practice. The benefit of such alignment is the elimination of the potential for a challenge to current practice based on the error in the rule.

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5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

A rule change is the only way to bring rule in line with actual practice.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

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1 **8.300 HOSPITAL SERVICES**

2 **8.300.1 Definitions**

3 Abbreviated Client Stay means an Inpatient stay ending in client death or in which the client
4 leaves against medical advice.

5 Concurrent Review means a review of quality, Medical Necessity and/or appropriateness of a
6 health care procedure, treatment or service during the course of treatment.

7 Continued Stay Review means a review of quality, Medical Necessity and appropriateness of an
8 Inpatient health care procedure, treatment or service.

9 Department means the Department of Health Care Policy and Financing.

10 Diagnosis Related Group (DRG) means a cluster of similar conditions within a classification
11 system used for Hospital reimbursement. It reflects clinically cohesive groupings of Inpatient
12 hospitalizations that utilize similar amounts of Hospital resources.

13 DRG Hospital means a Hospital that is reimbursed by the Colorado Medicaid program based on a
14 system of DRGs. Those Hospitals reimbursed based on a DRG system are: General Hospitals,
15 Critical Access Hospitals, Pediatric Hospitals, Rehabilitation Hospitals, and Long-Term Care
16 Hospitals.

17 Diagnostic Services means any medical procedures or supplies recommended by a licensed
18 professional within the scope of his/her practice under state law to enable him/her to identify the
19 existence, nature, or extent of illness, injury or other health condition in a client.

20 Disproportionate Share Hospital (DSH) Factor is a percentage add-on adjustment that qualified
21 Hospitals receive for serving a disproportionate share of low-income clients.

22 Emergency Care Services, for the purposes of this rule, means services for a medical condition,
23 including active labor and delivery, manifested by acute symptoms of sufficient severity, including
24 severe pain, for which the absence of immediate medical attention could reasonably be expected
25 to result in: (1) placing the client's health in serious jeopardy, (2) serious impairment to bodily
26 functions or (3) serious dysfunction of any bodily organ or part.

27 Hospital means an institution that is (1) primarily engaged in providing, by or under the
28 supervision of physicians, Inpatient medical or surgical care and treatment, including diagnostic,
29 therapeutic and rehabilitation services, for the sick, disabled and injured; (2) licensed, when
30 located in Colorado, as a Hospital by the Colorado Department of Public Health and Environment
31 (CDPHE); and, when not located in Colorado, by the state in which it is located; and (3) certified
32 for participation in the Centers for Medicare and Medicaid Services (CMS) Medicare program.
33 Hospitals can have multiple satellite locations as long as they meet the requirements under CMS.
34 For the purposes of the Colorado Medicaid program, distinct part units and satellite locations are
35 considered part of the Hospital under which they are licensed. Transitional Care Units (TCUs) are
36 not considered part of the Hospital for purposes of the Colorado Medicaid program. Types of
37 Hospitals are:

38 A General Hospital is licensed and CMS-certified as a General Hospital that, under an
39 organized medical staff, provides Inpatient services, emergency medical and surgical
40 care, continuous nursing services, and necessary ancillary services. A General Hospital

1 may also offer and provide Outpatient services, or any other supportive services for
2 periods of less than twenty-four hours per day.

3 A Critical Access Hospital (CAH) is licensed and CMS-certified as a Critical Access
4 Hospital. CAHs offer emergency services and limited Inpatient care. CAHs may offer
5 limited surgical services and/or obstetrical services including a delivery room and
6 nursery.

7 A Pediatric Hospital is licensed as a General Hospital and CMS-certified as a children's
8 Hospital providing care primarily to populations aged seventeen years and under.

9 A Rehabilitation Hospital is licensed and CMS-certified as a Rehabilitation Hospital which
10 primarily serves an Inpatient population requiring intensive rehabilitative services
11 including but not limited to stroke, spinal cord injury, congenital deformity, amputation,
12 major multiple trauma, fracture of femur, brain injury, and other disorders or injuries
13 requiring intensive rehabilitation.

14 A Long-Term Care Hospital is licensed as a General Hospital and CMS-certified as a
15 Long-Term Care Hospital. In general, Long-Term Care Hospitals have an average length
16 of stay of greater than twenty-five (25) days.

17 A Psychiatric Hospital is licensed and CMS-certified as a Psychiatric Hospital to plan,
18 organize, operate, and maintain facilities, beds, and treatment, including diagnostic,
19 therapeutic and rehabilitation services, over a continuous period exceeding twenty-four
20 (24) hours, to individuals requiring early diagnosis, intensive and continued clinical
21 therapy for mental illness; and mental rehabilitation. A Psychiatric Hospital can qualify to
22 be a state-owned Psychiatric Hospital if it is operated by the Colorado Department of
23 Human Services.

24 Inpatient means a person who is receiving professional services at a Hospital; the services
25 include a room and are provided on a continuous 24-hour-a-day basis. Generally, a person is
26 considered an Inpatient by a physician's order if formally admitted as an Inpatient with the
27 expectation that the client will remain at least overnight and occupy a bed even though it later
28 develops that the client can be discharged or transferred to another Hospital and does not
29 actually use a bed overnight.

30 Inpatient Hospital Services means preventive, therapeutic, surgical, diagnostic, medical and
31 rehabilitative services that are furnished by a Hospital for the care and treatment of Inpatients and
32 are provided in the Hospital by or under the direction of a physician.

33 Medically Necessary, or Medical Necessity, means a Medicaid service that will, or is reasonably
34 expected to prevent, diagnose, cure, correct, reduce or ameliorate the pain and suffering, or the
35 physical, mental, cognitive or developmental effects of an illness, injury, or disability; and for
36 which there is no other equally effective or substantially less costly course of treatment suitable
37 for the client's needs.

38 Non-DRG Hospital means a Hospital that is not reimbursed by the Colorado Medicaid program
39 based on a system of DRGs. Psychiatric Hospitals are considered Non-DRG Hospitals since their
40 reimbursement is based on a per diem rate.

41 Observation Stay means a stay in the Hospital for no more than forty-eight hours for the purpose
42 of (a) evaluating a client for possible Inpatient admission; or (b) treating clients expected to be
43 stabilized and released in no more than 24 hours; or (c) extended recovery following a

- 1 complication of an Outpatient procedure. Only rarely will an Observation Stay exceed twenty-four
2 hours in length.
- 3 Outlier Days mean the days in a Hospital stay that occur after the Trim Point Day.
- 4 Outpatient means a client who is receiving professional services at a Hospital, which is not
5 providing him/her with room and board and professional services on a continuous 24-hour-a-day
6 basis.
- 7 Outpatient Hospital Services means preventive, diagnostic, therapeutic, rehabilitative, or palliative
8 services that are furnished to Outpatients; and are furnished by or under the direction of a
9 physician or dentist.
- 10 Prospective Review means a review of quality, Medical Necessity and/or appropriateness of a
11 health care procedure, treatment or service prior to treatment.
- 12 Rehabilitative Services means any medical or remedial services recommended by a physician
13 within the scope of his/her practice under state law, for maximum reduction of physical or mental
14 disability and restoration of a client to his/her best possible functional level.
- 15 Relative Weight (DRG weight) means a numerical value which reflects the relative resource
16 consumption for the DRG to which it is assigned. Modifications to these Relative Weights are
17 made when needed to ensure payments reasonably reflect the average cost of claims for each
18 DRG. Relative Weights are intended to be cost effective, and based upon Colorado data as
19 available.
- 20 Retrospective Review means a review of quality, Medical Necessity and/or appropriateness of a
21 health care procedure, treatment or service following treatment. A Retrospective Review can
22 occur before or after reimbursement has been made.
- 23 Rural Hospital means a Hospital not located within a metropolitan statistical area (MSA) as
24 designated by the United States Office of Management & Budget.
- 25 State University Teaching Hospital means a Hospital which provides supervised teaching
26 experiences to graduate medical school interns and residents enrolled in a state institution of
27 higher education; and in which more than fifty percent (50%) of its credentialed physicians are
28 members of the faculty at a state institution of higher education.
- 29 Swing Bed Designation means designation of Hospital beds in a Rural Hospital with less than 100
30 beds for reimbursement under Medicare for furnishing post-hospital extended care services to
31 Medicare beneficiaries in compliance with the Social Security Act, Sections 1883 and 1866. Such
32 beds are called "swing beds."
- 33 Trim Point Day (Outlier Threshold Day) means the day which would occur 1.94258 standard
34 deviations above the mean (average) length of stay (ALOS) for each DRG.
- 35 Urban Hospital means a Hospital located within a MSA as designated by the United States Office
36 of Management & Budget.
- 37 Urban Safety Net Hospital means an Urban, General Hospital for which the Medicaid Inpatient
38 eligible days plus Colorado Indigent Care Program (CICP) Inpatient days relative to total Inpatient
39 days, rounded to the nearest percent are equal to or exceed sixty-five percent. To qualify as an
40 Urban Safety Net Hospital, a Hospital must submit its most current information on Inpatient days
41 by March 1 of each year for the Inpatient rates effective on July 1 of that same year. The

1 Department may rely on other data sources for the calculation if there are discrepancies between
2 the data submitted by the Hospital and alternative data sources such as claims or cost report
3 data.

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