

HEALTH REFORM IMPACT

What you need to know NOW

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

HACs Are Here to Stay:

CMS Finalizes Medicaid Payment Adjustments For Healthcare Acquired Conditions

August 10, 2011

In an earlier edition of *Health Reform IMPACT*,¹ we reported on the proposed rule by the Centers for Medicare & Medicaid Services (“CMS”) that would implement health reform-mandated Medicaid payment adjustments for Provider-Preventable Conditions (“PPCs”). CMS has now finalized these payment adjustments in a rule published June 6, 2011 (the “Final Rule”).² Apart from providing general clarifications and making the change to the effective date discussed below, the Final Rule is largely unchanged from the Proposed Rule.

New Effective Date

As proposed, the Final Rule was scheduled to go into effect on July 1, 2011. Recognizing the difficult timeframes involved, however, CMS has delayed the Final Rule’s effective date until July 1, 2012, to allow states time to offer adequate guidance to providers.

General Clarifications

The preamble commentary to the Final Rule clarifies the following:

- Conditions identified as Medicare’s hospital-acquired conditions (“HACs”), known for purposes of Medicaid as healthcare-acquired conditions (“HCACs”),³ as well as conditions identified in three Medicare National Coverage Determinations (“NCDs”),⁴ are the minimum requirement for state PPC non-payment policies.
- States have the flexibility, if desired, to identify additional conditions as PPCs under their Medicaid programs.
- Although the three Medicare NCDs are applicable in any healthcare service setting where these events may occur, the HCAC category applies only to inpatient hospital settings under Medicaid. There are no payment reductions for conditions existing prior to treatment by the

¹ See [“HACs Come To Medicaid: Another Quality Payment Adjustment,”](#) March 24, 2011.

² 76 Fed. Reg. 32816 (June 6, 2011).

³ The Final Rule incorporates conditions identified as Medicare’s HACs with the exception of Deep Vein Thrombosis/Pulmonary Embolism (“DVT/PE”) as related to total knee replacement and total hip replacement for pediatric and obstetric populations.

⁴ The three NCDs include: Surgery on the wrong patient, wrong surgery on a patient, and wrong site surgery.

provider or on admission to the hospital. Further, payment reductions are limited to PPCs that would otherwise result in a payment increase and those that a state can “reasonably isolate for nonpayment the portion of the payment directly related to treatment for, and related to, the [PPC].”⁵

If you have questions regarding the information in this alert, please contact any of the attorneys in our **Healthcare Practice Group** listed below.

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⁵ 76 Fed. Reg. 32816, 32819 (June 6, 2011).