

# HEALTH REFORM IMPACT

## What you need to know NOW

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

### HACs Come To Medicaid: Another Quality Payment Adjustment

March 24, 2011

On February 17, 2011, the Centers for Medicare & Medicaid Services (“CMS”) published a proposed rule (the “Proposed Rule”)<sup>1</sup> to implement the provision of the Patient Protection and Affordable Care Act (“PPACA”)<sup>2</sup> requiring Medicaid payment adjustments for hospital-acquired conditions (“HACs”) and for other healthcare-acquired conditions (“HCACs”).<sup>3</sup> If finalized, the Proposed Rule will go into effect July 1, 2011, and would require state Medicaid programs to implement systems to identify HCAC claims for nonpayment and also implement requirements for provider self-reporting of HCACs in the Medicaid claims payment process.

In 2008, under the Medicare program, CMS stopped paying hospitals additional amounts for the treatment of certain HACs, which are specific preventable adverse conditions that were not present upon admission of the patient.<sup>4</sup> Although CMS encouraged states to adopt Medicaid payment prohibitions on provider claims for HACs, CMS did not require that states implement nonpayment policies for HACs. As a result, a recent review by CMS revealed that 29 states are currently without HAC-related nonpayment policies. In states with existing HAC-related nonpayment policies, the review found that the policies vary tremendously from state to state. In an effort to provide consistency across Medicare and Medicaid, the Proposed Rule requires states to adopt, at a minimum, the current list of Medicare HACs.<sup>5</sup> The Proposed Rule also requires that states review and update its HCAC list to ensure continued consistency with the Medicare HAC list.

At the same time, the Proposed Rule attempts to offer states flexibility to design individual HCAC policies for nonpayment and to create quality-related programs suitable for their own Medicaid program and health marketplace by allowing states to exceed the federally established minimum HAC standards. To accommodate this goal, the Proposed Rule introduces a new

<sup>1</sup> 76 Fed. Reg. 9283 (Feb. 17, 2011).

<sup>2</sup> Pub. L. 111-148, Section 2702 of the Health Reform Legislation.

<sup>3</sup> Note that, in the context of Medicaid, the health reform legislation and regulations refer to HACs as “healthcare-acquired conditions” instead of “hospital-acquired conditions.”

<sup>4</sup> For more information regarding recent changes to the Medicare HAC policy, [click here](#).

<sup>5</sup> The list of HACs includes, among other conditions, catheter-associated urinary tract infections and vascular catheter-associated blood stream infections.

“catch-all” term – Provider Preventable Condition (“PPC”) – designed to allow states to include conditions and provider types other than those identified as HACs for Medicare.

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

Also, please [click here](#) to visit our special webpage on Health Reform IMPACT.

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