Reduce Hospital Capital Rate Add-on and Reduce Hospital Capital Reconciliation Payment

Effective date: 12/8/20

Pursuant to the authority vested in the Commissioner of Health by Section 2807-c(35)(b) of the Public Health Law, paragraphs (e)(1) and (2) of Section 86-1.25 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended to be effective upon filing with Secretary of State, to read as follows:

(e) Payment for budgeted allocated capital costs.

(1) Capital per diems for exempt units and hospitals shall be calculated by dividing the budgeted capital costs allocated to such rates in paragraph (d) of this section by the budgeted exempt unit days, reconciled to actual rate year days and actual rate year exempt unit or hospital-approved capital expense. Effective on or after April 1, 2020 and thereafter, the budgeted and actual capital per diem rates shall be reduced by five percent (5%). Additionally, for capital per diem rates reconciled on or after April 1, 2020, if the difference between the budgeted and actual capital per diem rate results in a positive rate adjustment, that rate adjustment shall be reduced by ten percent (10%). Conversely, if the difference between the budgeted and actual capital per diem rate results in a negative rate adjustment, that rate adjustment shall be increased by ten percent (10%).

(2) Capital payments for Acute DRG case rates shall be determined by dividing the budgeted capital allocated to such rates in paragraph (d) of this section by the hospital's budgeted [non-

exempt unit]Acute discharges, reconciled to actual rate year discharges and actual rate year [non-exempt unit]Acute or hospital-approved capital expense. Effective on or after April 1, 2020 and thereafter, the budgeted and actual capital Acute DRG case rates shall be reduced by five percent (5%). Additionally, for Acute DRG case rates reconciled on or after April 1, 2020, if the difference between the budgeted and actual capital Acute DRG case rate results in a positive rate adjustment, that rate adjustment shall be reduced by ten percent (10%). Conversely, if the difference between the budgeted and actual capital Acute DRG case rate results in a negative rate adjustment, that rate adjustment shall be increased by ten percent (10%).

REGULATORY IMPACT STATEMENT

Statutory Authority:

The statutory authority for this regulation is contained in Section 2807-c(8)(c) of the Public Health Law (PHL), which was amended as part of the State Fiscal Year 2020-21 Budget. Section 2807-c(35)(b) authorizes the Commissioner to promulgate regulations, including emergency regulations, regarding Medicaid reimbursement rates for Hospital inpatient services. Such rate regulations are set forth in Subpart 86-1 of Title 10 (Health) of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR).

Legislative Objectives:

The legislative objective of the amendment to Section 2807-c(8)(c) of the PHL is to reduce hospital inpatient capital payments by five percent (5%) and adjust the hospital inpatient budgeted to actual capital reconciliations by ten percent (10%).

Needs and Benefits:

Hospital capital costs have become a significant expense for the Medicaid budget. Hospitals are required to submit a budgeted capital report to facilitate reimbursement for appropriate capital costs for inpatient services within the specified year. Where actual expenses exceed budgeted expenses, the hospital receives a reconciliation payment. In many instances, these reconciliation payments have grown, due to chronic underbudgeting. By adjusting the reconciliation payments, the Department of Health expects that capital budgets submitted by hospitals will more accurately reflect actual expenses. Further, reducing the inpatient capital add-ons by five percent (5%) will help to contain capital cost expenditures.

COSTS:

Costs to Private Regulated Parties:

There will be no additional costs to private regulated parties.

Costs to State Government:

There is no cost to State Government for this proposed regulation.

Costs of Local Government:

There is no cost to Local Government for this proposed regulation.

Costs to the Department of Health:

There will be no additional costs to the Department of Health as a result of this proposed regulation.

Local Government Mandates:

The proposed regulation does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

No additional paperwork is required of providers.

Duplication:

This regulation does not duplicate any existing federal, state or local government regulation.

Alternatives:

The alternative would be to not issue regulations and rely solely on the statutory authority in PHL § 2807-c(8)(c). However, because it is preferable that the regulations mirror the statutes that govern rate setting, this alternative was rejected.

Federal Standards:

The proposed regulation does not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance Schedule:

Public Health Law requires the Department of Health to reduce the hospital inpatient budgeted and actual capital rate add-on by five percent (5%) effective April 1, 2020 and adjust the hospital inpatient budgeted to actual capital reconciliation payout or recoupment by ten percent (10%) for any capital reconciliation that occurs after April 1, 2020.

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REGULATORY FLEXIBILITY ANALYSIS
FOR
SMALL BUSINESSES AND LOCAL GOVERNMENTS

Effect of rule:

The amendment to Section 2807-c(8)(c) of the PHL will reduce inpatient capital payments by five percent (5%) and adjust the inpatient budgeted to actual capital reconciliations by ten percent (10%). Although a reduction would not directly be targeted at counties/sponsoring local governments, certain counties and New York City operate public hospitals and provide at least a portion of ongoing financial support. These reductions impact public hospitals; however, there is no direct reduction to dollars paid directly to counties. Out of 181 hospitals in New York State, 5 are considered small businesses and 19 governmental.

Compliance requirements:

There are no new reporting, record keeping or other compliance requirements are being imposed as a result of the proposed regulation.

Professional services:

There are no new or additional professional services are required in order to comply with the proposed regulation.

Compliance costs:

There are no initial capital cost will be imposed as a result of this rule, nor is there an annual cost of compliance.

Economic and Technological Feasibility:

As the proposed amendment affects only the amounts reimbursed for existing services, the process to comply by small businesses and local governments is not expected to have any economic or technological implications.

Minimizing adverse impact:

These regulations are necessary to achieve conformance with recent statutory changes. The impact is limited, as the capital reduction is 5% of total allowable inpatient capital costs and does not affect outpatient capital payments. In addition, the 10% reconciliation adjustment can be avoided if hospitals submit an accurate budgeted capital projection. These regulations are also required to conform with recently enacted law.

Small business and local government participation:

The proposed regulation arises from a change in State law pursuant to Chapter 56 of the Laws of 2020. The initiatives were recommended by the MRT II following a series of public meetings where stakeholders had the opportunity to comment and collaborate on ideas to address the efficacy of these services.

STATEMENT IN LIEU OF

RURAL AREA FLEXIBILITY ANALYSIS

No rural flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed regulations do not impose an adverse impact on facilities in rural areas, and they do not impose reporting, record keeping or other compliance requirements on facilities in rural areas.

JOB IMPACT STATEMENT

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. The proposed rule will not have a substantial adverse impact on jobs or employment opportunities, nor does it have adverse implications for job opportunities.

EMERGENCY JUSTIFICATION

The proposed amendment implements a capital rate and payment reduction as required in Public Health Law Section 2807-c(8)(c), pursuant to the State Fiscal Year 2020-21 Budget. Public Health Law Section 2807-c(35)(b) provides the Commissioner of Health with authority to issue these regulations as emergency regulations. These regulations are required to reduce the hospital inpatient budgeted and actual capital rate add-on by five percent (5%) effective April 1, 2020 and adjust the budgeted to actual capital reconciliation payout or recoupment by ten percent (10%) for any capital reconciliation that occurs after April 1, 2020.