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**MEMORANDUM**

To: Health Care Clients and Friends  
From: Powers Pyles Sutter & Verville PC  
Date: May 28, 2010  
Re: Supplemental Proposed FY 2011 IPPS Rule to Include Health Care Reform Changes

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The Centers for Medicare & Medicaid Services (“CMS”) has released a supplemental proposed rule for the FY 2011 acute care hospital inpatient prospective payment system (“IPPS”) to incorporate changes adopted in the Patient Protection and Affordable Care Act (“PPACA”), Pub. Law No. 111-148. While proposed FY 2011 IPPS regulations were published on May 4, 2010 (75 Fed. Reg. 23,851), CMS indicated then that it would address the PPACA changes in a subsequent rulemaking. The supplemental proposed rule is available online at [http://www.federalregister.gov/OFRUpload/OFRData/2010-12567\\_PI.pdf](http://www.federalregister.gov/OFRUpload/OFRData/2010-12567_PI.pdf) and is scheduled to be published in the Federal Register on June 2. Comments are due June 18 (comments on the original proposed FY 2011 IPPS rules are also due by June 18).

Among the PPACA changes addressed in the proposed rule are the following:

- Market Basket Changes

PPACA requires that the FY 2011 update equal the market basket minus 0.25 %. Since CMS had proposed a market basket increase of 2.4%, the revised update is 2.15%. Hospitals that do not properly report under the RHQDAPU program are subject to an additional 2% reduction. The supplemental proposed standardized amounts (which incorporate a -2.9% adjustment to account for changes in documentation and coding practices under MS-DRGs, as required by statute) are as follows:

**Table 1A.** – Proposed National Adjusted Operating Standardized Amounts, Labor/Nonlabor (if Wage Index is Greater Than 1)

Full Update	
Labor-related	Nonlabor-related
\$3,545.96	\$1,608.05

**Table 1B.** – Proposed National Adjusted Operating Standardized Amounts, Labor/Nonlabor (if Wage Index is Less Than or Equal to 1)

Full Update	
Labor-related	Nonlabor-related
\$3,195.49	\$1,958.52

**Table 1D** – The supplemental proposed capital standardized federal payment rate is \$422.18.

PPACA also reduced the FY 2010 IPPS update by 0.25% for discharges on or after April 1, 2010. CMS indicated in the supplemental proposed rule that hospitals would be paid based on revised FY 2010 standardized amounts that reflect the 0.25% reduction effective with April 1<sup>st</sup> discharges.

- Wage Index

PPACA directs the HHS Secretary to submit a plan to Congress, by December 31, 2011, to reform the Medicare wage index. Comments and suggestions are requested as to how “affected parties” may participate in developing this plan.

For geographic reclassifications, PPACA restored the average hourly wage (“AHW”) standards that were in effect for FY 2008 (84% for urban hospitals, 85% for group reclassifications, and 82% for rural hospitals) for reclassification applications for FY 2011 and subsequent years (until the Secretary submits the wage index reform plan to Congress). CMS determined that, based on the revised AHW standards, an additional 18 hospitals qualified for reclassification for FY 2011 and 5 hospitals qualified for reclassification to their primary requested area.

In the FY 2009 IPPS rule, CMS adopted a statewide budget neutrality adjustment for the rural and imputed floors. PPACA, however, rescinded the statewide approach and restored a uniform, national budget neutrality adjustment, starting with the FY 2011 wage index.

Effective with FY 2011, PPACA requires that PPS hospitals located in “Frontier States” have a wage index of at least 1.0. A “Frontier State” is a state where at least 50 percent of its counties have a population density less than 6 persons per square mile. CMS determined that the following states are “Frontier States”: Montana, Wyoming, North Dakota, Nevada, and South Dakota.

The Addendum to the supplemental proposed rule includes revised hospital-specific wage indexes for FY 2011, which may have changed somewhat from those reflected in the May 4 Federal Register, due to the application of the PPACA changes.

- Payments to Hospitals in Counties with Low Medicare Spending

For FY 2011 and 2012, PPACA provides an additional IPPS payment to hospitals that are located in counties in the bottom quartile of counties with the lowest risk-adjusted spending per Medicare enrollee. The total amount of payment available over the two-year period is \$400 million. CMS is proposing to distribute \$150 million in FY 2011 and \$250 million in FY 2012. The supplemental proposed rule addresses CMS' methodology for determining the bottom quartile of counties with the lowest Medicare spending, including development of a risk adjustment model and calculation of county level spending.

Payments would be distributed to qualifying hospitals through an annual one-time payment during each of FY 2011 and FY 2012. The amount of payment would be based on the proportion of each qualifying hospital's IPPS operating payments for FY 2009 relative to the total IPPS operating payments to all qualifying hospitals in FY 2009. A list of qualifying hospitals, along with each hospital's weighting factor, is included in the supplemental proposed rule.

- Other Changes

The supplemental proposed rule also implements other FY 2011 IPPS changes required by PPACA, including extension of the payment provisions for Medicare-dependent hospitals, temporary improvements to the low-volume hospital adjustment, and extension of the rural community hospital demonstration.

If you have any questions, please call Barbara Straub Williams, Susan Philp, Ronald Connelly or the attorney with whom you usually work at (202) 466-6550.