

Regulatory Round Up

Home and Community- Based Services (HCBS):

*A Summary of Major Regulatory,
Quality & Payment Initiatives*



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Introduction

Updated regulations, new quality and payment initiatives, and changing market forces are impacting the environment in which LeadingAge members do their important work. To help members stay informed about these significant changes, we have developed this Home and Community-Based Services Regulatory Round Up to summarize the major regulatory, quality and payment initiatives that are heading your way. We will update this resource on a regular basis, as initiatives advance and new issues surface.

For each item covered, you will find:

- A brief synopsis of the initiative.
- A check-box to show what provider types (e.g., Adult Day, Assisted Living (AL), Home Health, Hospice) the initiative affects.
- A graphic to show if the initiative primarily impacts regulatory compliance, quality or payment (where an initiative has more than one impact, we flag it). Here are the symbols we use:

Regulatory



Quality



Payment



- Easy access to more detailed information about the specific requirements.
- A timeline to help you plan strategically, prepare thoughtfully and be positioned for success.

As always, the LeadingAge team is here to help. Please reach out to the following staff if you have questions or need assistance with the information or initiatives contained in this document:

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HCBS Settings Rule

- ✘ Adult Day
- ✘ AL
- Home Health
- Hospice
- Other



Summary

- Define person-centered care requirements for (c) and (k) waivers
- Allow states to combine waiver programs under (c) to facilitate streamlining these programs
- Establishes the qualifications for settings eligible for reimbursement under the waiver programs
- Moves away from earlier definitions based on setting, location, or geography
- Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment
- Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS

If the state decides to submit evidence to CMS for the application of the heightened scrutiny process for settings that are presumed not to be home and community-based, the Statewide Transition Plan should include evidence sufficient to demonstrate the setting does not have the characteristics of an institution and does meet the home and community-based setting requirements.

Sources of Additional Information

- [Initial and Final Approved Statewide Transition Plans](#) for the HCBS Settings Rule
- [LeadingAge Summary of the Final Rule](#)
- [Final HCBS Settings Rule](#)
- [Frequently Asked Questions](#)
- [LeadingAge analysis on impact to Adult Day services](#)
- [LeadingAge analysis of New Construction compliance](#) with the rule
- [LeadingAge summary on regulations for unsafe exit seeking behavior](#)
- Extension of [deadlines for compliance](#)

Important Dates and Deadlines

2022

March 17, 2022: All States must be in compliance with the rule.

Home Health Conditions of Participation

- Adult Day
- AL
- ✘ Home Health
- Hospice
- Other



Summary

Home health care agencies must be in compliance with the new Conditions of Participation (CoPs) that went into effect January 13, 2018. Agencies will have until July 13, 2018 to implement one QAPI standard: Performance Improvement Projects. CMS has agreed not to implement any civil monetary penalties (CMPs) for the first year of the new CoPs, until Jan. 13, 2019.

Sources of Additional Information

- The [final rule](#) for the Home Health Conditions of Participation was posted in the [July 10, 2017 Federal Register](#). This final rule delays the July 13, 2017 effective date for the “Medicare and Medicaid Programs: Conditions of Participation for Home Health Agencies” originally published in the Federal Register on January 13, 2017. The rule delays the effective/compliance date for an additional six months until January 13, 2018. Agencies will have until July 13, 2018 to implement one QAPI standard: Performance Improvement Projects
- The Centers for Medicare & Medicaid Services (CMS) [released a draft version of the home health Conditions of Participation \(CoPs\) Interpretative Guidelines](#) (IGs) in October 2017
- The Centers for Medicare & Medicaid Services (CMS) released a revised [protocol for surveyors](#)
- CMS has also offered [supplemental information](#) on the elimination of the definition for subunit home health agencies, providing additional clarity around one major issue in the new CoPs
- LeadingAge developed for members a set of [Checklists](#) that delineate the requirements of the new home health Conditions of Participation (HHCoPs) published in the final rule and the actions needed to be in compliance

Important Dates and Deadlines

2018

January 13, 2018: Compliance with the Home Health Conditions of Participation.

2019

Jan. 13, 2019: CMS to recommence imposing civil monetary penalties (CMPs) for the new CoPs.



Summary

- CMS finalized a planned .04% decrease, or \$80 million cut, for home health providers in 2018
- CMS finalized the 2018 standardized episodic payment rate of \$3,039.64, which is more than the proposed rate of \$3,038.43
- There was also an increase in the per visit rates for 2018 compared to the proposed rule. As expected, the rates reflect a market basket update of 1% along with case mix creep adjustment of .97 percent
- CMS maintains the proposed outlier policy and a non-routine supply conversion factor of \$53.03 as proposed
- CMS finalized the proposed changes to the HHVBP program
- The OASIS based Drug education on All Medications will be removed beginning with payment year three
- CMS finalized the number of completed HHCAPHS surveys that will be used for the HHVBP from 20 to 40 and will apply the 40 survey threshold to payment year one
- CMS finalized the majority of the proposals related to the HHQRP beginning in 2019. The exceptions were to not finalize the standardized assessment item for Cognitive Function and Mental Status; Special Services, Treatments, and Interventions; and Impairments

Sources of Additional Information

[The CY 2018 Home Health Final Rule \(CMS-1672-P\)](#)

- **Makes changes to the:**
 - Home Health Value Based Purchasing (HHVBP) model
 - Home Health Quality Reporting Provisions
 - CY 2018 Home Health Prospective Payment System Rate Update and CY 2019
 - Case-Mix Adjustment Methodology Refinements
 - [LeadingAge Medicare Home Health Calculator](#) to reflect the [final rates for CY 2018](#), effective Jan. 1, 2018

Important Dates and Deadlines

2022

Beginning **January 1, 2016**, to **December 31, 2022**: The HH VBP Model will encompass 5 performance years and be implemented.

Hospice (FY) 2018 Rule

- Adult Day
- AL
- Home Health
- ✘ Hospice
- Other



Summary

On August 1, 2017, CMS issued a final rule (CMS-1675-F) that updates FY 2018 Medicare payment rates and the wage index for hospices serving Medicare beneficiaries, and also updates the hospice quality reporting requirements. The final rule includes:

- Routine Annual Rate Setting Changes
- For accounting years that end after September 30, 2016, and before October 1, 2025, the hospice cap is updated by the hospice payment update percentage rather than using the consumer price index for urban consumers (CPI-U). The hospice cap amount for the 2018 cap year will be \$28,689.04, which is equal to the 2017 cap amount (\$28,404.99) updated by the FY 2018 hospice payment update percentage of 1.0 percent
- Hospice Quality Reporting Program
- Hospice CAHPS® Experience of Care Survey
- Hospice Quality Reporting Program Submission Exemption and Extension Requirements for the FY 2019 Payment Determination and Subsequent Years
- Public Reporting; Quality Measure Concepts Under Consideration for Future Years
- New Data Collection Mechanisms Under Consideration: Hospice Evaluation & Assessment Reporting Tool (HEART)

Sources of Additional Information

- [FY2018 Hospice Final Rule Summary](#)
- Hospice CAHPS® [survey website](#)

Important Dates and Deadlines

2018

Hospice CAHPS® Survey data collected in calendar year (CY) 2016 will impact APU payments for FY 2018.

2019

Hospice CAHPS® Survey data collected in CY 2017 will impact APU payments for FY 2019.

2020

Beginning **January 1, 2018** to **December 31, 2018**: hospices must submit at least 90 percent of all required HIS records within the 30 day submission timeframe for the year or be subject to a 2 percentage point reduction to their market basket update for FY 2020.