BRR Reflections FY 2024 SNF PPS Final Rule Q&A

Q1: What does sequestration include?

A1: The Budget Control Act of 2011 required mandatory across-the-board reductions in federal spending, also known as sequestration. The American Taxpayer Relief Act of 2012 postponed sequestration for two months. As required by law, President Obama issued a sequestration order on March 1, 2013. Sequestration impacts payments for all Medicare fee-for-service claims including Part A and Part B payments in SNFs.

Q2: Can you expand on Mental Health Counselors exclusion? We usually have an LCSW providing counseling so that would still be included?

A2: The FY 2024 SNF PPS Final Rule indicates the following, *"Effective with services furnished on or after January 1, 2024, section 4121(a)(4) of the CAA, 2023 added marriage and family therapists and mental health counselors to the list of practitioners at section 1888(e)(2)(A)(ii) of the Act whose services are excluded from the consolidated billing provision."* CMS has not yet provided a specific list of HCPCS codes related to these services. The list of excluded items and services is updated annually and can be found at the following website https://www.cms.gov/medicare/billing/snfconsolidatedbilling. The CY 2024 list has not yet been posted.

Q3: How do you change health access when you have staffing challenges clinically and in community for either an "age in place scenario or LTC placement?

A3: I understand you to be referring to the concept of health equity that will be addressed with the adjustment to VBP points via an incentive to increase the proportion of dual eligibles in the short term patient mix. It is a complex issue no doubt, the staffing issues notwithstanding.

However, CMS has indicated that dual eligible patients that do come to SNFs, at this point, best represent the kind of populations that are considered to be underserved and for whom the health equity principles, as currently defined, can have a positive impact. That said, there will be more discussions as time goes on with more succinct health equity measures developed.

Q4: Has the up-to-date definition for COVID-19 changed or been updated?

A4: The final rule refers to current CDC guidance when referring to "up to date" Current CDC guidance may be found at the following website, https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html.

Q5: On slide 54 - can you verify if it is fiscal year or calendar year 24 when we have to start reporting on 90%

A5: The FY 2024 final indicated the following, *"Starting in CY 2024, SNFs would be required to report 100 percent of the required quality measures data and standardized patient assessment data collected using*

the MDS on at least 90 percent of all assessments submitted January 1 through December 31 for that calendar year's payment determination."

This is because it is the CY that determines compliance for the SNF QRP reporting threshold for a given FY payment. See the Skilled Nursing Facility (SNF) Quality Reporting Program (QRP) Data Submission Deadlines website. Currently facilities FY 2024 SNF Market basket update will be affected by SNF QRP reporting compliance in CY 2022, FY 2025 will be impacted by compliance in CY2023. As the final rule indicates, SNF QRP reporting compliance in CY 2024 (first year with the new 90% compliance threshold) will impact the FY 2026 Market basket update.

Finally, it is important to understand what items on the MDS are required to be reported. CMS posts updated tables in the downloads section here. Facilities should be aware that starting with data collected in Q4 of 2023, the number of MDS data elements required for SNF QRP reporting has increased significantly due to the implementation of MDS 3.0 v1.18.11 and the additional standardized Patient Assessment Data Elements, or SPADEs.

Q6: This is the second year with so many facilities hit with a wage index reduction. How do they figure that when cost of living and wages is up like crazy?

A6: As noted in the presentation, CMS uses hospital inpatient wage data in developing a wage index to be applied to SNFs. That is not likely to change. These are determined by location of the SNF in a CBSA or Core Based Statistical Area (the Urban or Rural status). So, changes have to do with the relative changes within those geographical regions. It is a good thing that CMS has finalized a policy to cap any wage index reduction at 5%. That is somewhat helpful. This will be an ongoing challenge as long as Hospital wage data is used as a proxy for SNF wages in these determinations.

Q7: Is the reduction of 2 percentage points to the applicable FY annual payment update beginning with FY 2026 for SNF QRP reporting, in addition to/on top of any other potential reductions to the rate?

A7: The short answer is yes. It is the adjusted market basket that is reduced by 2%. That occurs before any other adjustments to the rate. For example, a 2% reduction to the Market basket for FY 2024 would reduce it from 6.4% to 4.4%, which would then adjust the base rates from the previous FY. Those base rates would then be adjusted by the CMI, VBP, Sequestration and the wage index. Also, for FY 2024, the parity adjustment must be taken into account.

Q8: Because of the enormity of these changes and the usage of EHRs (I am sure the tech spec document is huge), any mumblings to a delay in implementation of these changes? I am quite concerned that the EHRs won't be ready.

A8: I have not heard that there will be any delay. Final MDS tech specs have been available since May.

Q9: Can you clarify why a Long Stay metrics (Falls with Injury) will be included in the SNF VBP (Medicare) program?

A9: Here is what CMS has indicated with regard to this issue, specifically in reference to the Falls with Major Injury (Long-Stay) measure. *"Although the Falls with Major Injury (Long-Stay) measure is a long-stay measure, we believe that including a long-stay measure in the SNF VBP Program is appropriate because it will better capture the quality of care provided to the entirety of the population that resides in facilities that are dually certified as SNFs and nursing facilities, including long-stay residents who continue to receive Medicare coverage for certain services provided by nursing facilities."*

Incidentally, that is how CMS responded to one commenter in the final rule who had similar concerns as yours.

Q10: Is the SNF VBP and QRP an all or nothing measure? Say you are compliant with 3 QRP and not compliant with one? will you be disincentivized?

A10: The SNF QRP is a reporting program. The new standard will be that facilities will be required to report 100% of the SPADE data and data necessary to calculate the QRP quality measures on at least 90% of the MDS assessments submitted to IQIES. Facilities are also required to submit 100% of the data necessary for NHSN reporting. If either threshold is not met, facilities will lose 2% off the applicable market basket update.

Without getting wordy, it is not as simple as that for SNF VBP. See slides 63 – 71 of the presentation for details. It is a complex scoring method that facilities will need to keep up with in their quarterly feedback reports in IQIES. This will become more challenging as VBP measures are added. Essentially, facilities can still participate in VBP even if some data is missing and or do not achieve points on some measures. The thresholds are detailed on those slides. This really requires a separate training which we will be providing for BRR customers in a future BRR Reflections.