

# 2024 Home Care and Hospice National Update



William A. Dombi  
President and CEO  
National Association for Home Care &  
Hospice

1

## Home Health Landscape Factors

- **PDGM started 1/1/2020**
  - Covid-19 pandemic hits March 2020
- **Significantly affected the delivery of Medicare home health services**
  - Reduced therapy visits
  - Reduced overall visits
  - 30-day episode resets care planning
  - LUPA rates increase
  - 432 case mix categories complicates care management
- **HHAs decrease 2019 (11792) to 2023 (11321 w/o CA)**
- **Medicare Advantage enrollment and home health increases as a proportion of HHA patient census**

2

2

# Medicare HH 2024 Proposed Rule

- CY 2025 Proposed Home Health Prospective Payment System Rate Update and..... Much More
- <https://public-inspection.federalregister.gov/2024-14254.pdf>
- \$280M expected spending decrease
- +\$415M MBI; -\$595M BN adj; -\$100M Outlier
- 2.5% net inflation rate update
- 4.067% permanent PDGM Budget Neutrality Adjustment
- Maintains PDGM case mix model
  - Recalibrates all 432 case mix weights and LUPA thresholds
  - Outlier FDL modified to 0.38 (decreases # of outlier periods)
  - Resets LUPA thresholds
  - Adds OT LUPA only add-on and modifies other LUPA add-ons
- HHVBP; QRP: provider enrollment; and more proposals

3

# Landscape Factors

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Discipline	CY 2018 (Simulated)	CY 2019 (Simulated)	CY 2020	CY 2021	CY 2022	CY 2023
Skilled Nursing	4.53	4.49	4.35	4.05	3.90	3.86
Physical Therapy	3.30	3.33	2.70	2.74	2.77	2.78
Occupational Therapy	1.02	1.07	0.79	0.78	0.77	0.76
Speech Therapy	0.21	0.21	0.16	0.15	0.14	0.14
Home Health Aide	0.72	0.67	0.54	0.48	0.43	0.41
Social Worker	0.08	0.08	0.06	0.05	0.05	0.05
<b>Total (all disciplines)</b>	<b>9.86</b>	<b>9.85</b>	<b>8.59</b>	<b>8.25</b>	<b>8.06</b>	<b>8.00</b>

**Source:** CY 2018 and CY 2019 simulated PDGM data with behavior assumptions came from the Home Health LDS. CY 2020 data was accessed from the Chronic Conditions Warehouse (CCW) Virtual Research Data Center (VRDC) on July 12, 2021. CY 2021 data was accessed from the CCW VRDC on July 14, 2022. CY 2022 data was accessed from the CCW VRDC on July 13, 2023. CY 2023 data was accessed from the CCW VRDC on March 19, 2024.

**Note:** All 30-day periods of care claims were included (for example LUPAs, PEPs, and outliers). There are approximately 540,000 60-day episodes that started in 2019 and ended in 2020 that are not included in the analysis.

4

4

## 2025 Proposed Payment Rates

- Base payment rates are increased by a net Market Basket Index of 2.5%
  - An annual inflation update of 3.0%
  - Reduced by a 0.5 Productivity Adjustment to net at 2.5%
- PDGM Budget Neutrality Adjustment (BNA) set at 4.067% by combining CY24 leftover 2.89% and data year 2023 adjustment of 1.125%
- Includes case mix weight recalibration adjustment of 1.0035 and wage index adjustment of 0.9985
- \$2008.12 base 30-day rate (\$2038.13 2024 rate)

5

**TABLE 18: SUMMARY OF PERMANENT ADJUSTMENTS FOR CYS 2020 – 2026**

Claims Analysis Year	Base Payment Rate for Assumed Behaviors (Actual Amount Paid to HHAs in the Claims Analysis Year)	Base Payment Rate that Reflects Actual Behavior Changes (As Determined After Later Claims Analysis)	Total Permanent Adjustment Between Assumed and Actual Behavior Rates*	Permanent Adjustment CMS Finalized and Implemented in Rulemaking
CY 2020	\$1,864.03	\$1,742.52	-6.52%	n/a
CY 2021	\$1,901.12	\$1,751.90	-7.85%	-3.925% applied to CY 2023 rates
CY 2022	\$2,031.64	\$1,839.10	-5.78%	-2.890% applied to CY 2024 rates
CY 2023	\$2,010.69	\$1,873.17	Proposed -4.067%	-4.067% proposed to be applied to CY 2025 rates
CY 2024	\$2,038.13	TBD	TBD	TBD
CY 2025	TBD	TBD	TBD	TBD
CY 2026	TBD	TBD	TBD	TBD

Notes: With the prospective payment systems, the claims data analyzed differ from the rulemaking cycle. For example, CY 2020 claims are used in CY 2022 rulemaking.

\*The total permanent adjustment accounts for prior adjustments that were finalized and implemented through rulemaking.

6

## “Clawback” Risk

- CMS calculates the “overpayments: from 2020-2023 at \$4,455,407,087 due to time-lag in data that prevented an earlier budget neutrality calculation
- 2020 \$873,073,121
- 2021 \$1,211,002,953
- 2022 \$1,405,447,290
- 2023 \$965,883,723
  
- No payment adjustments at this time are scheduled
- Temporary Adjustments authorized through CY2026 data year

7

7

## Area Wage Index Changes

- Beginning in CY 2023, CMS applies a permanent 5-percent cap on any decrease to a geographic area’s wage index from its wage index in the prior year, regardless of the circumstances causing the decline.
  - New transition codes for counties affected by 5% cap
- a geographic area’s wage index for CY 2025 would not be less than 95 percent of its final wage index for CY 2024, regardless of whether the geographic area is part of an updated CBSA
- As usual, wage index is a key factor to consider in determining individual HHA impact
- <https://www.cms.gov/medicare/payment/prospective-payment-systems/home-health/home-health-prospective-payment-system/cms-1803-p>

8

## CY2025 Medicare Home Health Rule: Action Plan

- HHA closures, service area reductions; and referral rejections underway
- Estimated 48% of HHAs with <0% overall margins projected for 2024
  - Medicare FFS margins used to subsidize MA plans and Medicaid
- PDGM Action Plan
  - Congress
    - S.2137; H.R. 5159
    - Eliminates permanent and temporary adjustment authority
    - Requires MedPAC to expand its analysis of HHA financial status to include all payers.
  - Litigation
    - NAHC v. Becerra
    - Challenges CMS/HHS budget neutrality methodology

9

## P CY2025 Medicare Home Health Rule: Action Plan

- Senate and House bipartisan bills would:
  - Eliminate all cuts except the “assumed behavioral adjustment”
- Estimated “score” is between \$15B and \$20B
- SFC Chair Wyden supportive of some help
  - Must help small and rural HHAs
  - Must have some offsets
- Full relief contained in pending bills not likely

10

## CY2025 Medicare Home Health Rule: Lawsuit NAHC v Becerra: update

- Lawsuit challenges CMS “budget neutrality” methodology
  - Alleged violation of plain language of Medicare law
  - Alleged violation of requirement that therapy volume outside of PDGM operation
  - Alleged violation of Administrative Procedure Act
- Parties filed cross Motions for Summary Judgment
- Court ruled on April 26, granting HHS motion
  - Held that NAHC was required to first seek a “Request for Expedited Judicial Review” prior to lawsuit
  - Held that budget neutrality adjustment methodology is open for judicial review if administrative remedies are exhausted
- NAHC evaluating options of appeal or exhaustion of administrative remedies (case is not over!)

11

## Home Health Conditions of Participation –Admission to Service Policy

Propose a new standard at §484.105(i) s to require HHA develop, implement, and maintain an acceptance to service policy that is applied consistently to each prospective patient referred for home health care.

- Anticipated needs of the referred prospective patient.
- Case load and case mix of the HHA.
- Staffing levels of the HHA.
- Skills and competencies of the HHA staff.

Make available to the public accurate information regarding the services offered by the HHA and any limitations related to types of specialty services, service duration, or service frequency. Reviewed at least annually

12

## Medicare Hospice

- Focus on Program Integrity and Oversight
  - Media and Congressional focus
  - Hospice-specific rule changes
    - New and hospices with ownership changes moved to “high risk” screening category
    - Extension of 36-month rule in hospice
    - Hospice physician enrollment in Medicare
    - Deactivation where 12 months of non-billing
    - Expanded “managing employee” definition to include hospice administrator and medical director
  - Is moratoria and intensified claims review in the near-term future?
- Quality of Care
  - Special Focus Program
    - Enhanced oversight of 10% of hospices with a risk of poor care quality
    - Informal Dispute Resolution process instituted
- Future benefit and payment reforms???

13

## Medicare Hospice: Proposed FY2025 Rule

- 2.6% Market Basket Index rate update
- Hospice Cap at \$34,364.85
- HOPE patient data project implementation
- Modified CBSAs for wage index applications
- Clarification on Election Statement, Notice of Election, and Hospice Certification
- RFI on a service intensity adjustment for special high cost services
- No program integrity proposals
- No change on Special Focus program standards
- <https://public-inspection.federalregister.gov/2024-06921.pdf>

14

## Hospice Payment Reform: Cong. Blumenauer Proposal

- Align payment with costs
- Institute “per visit” payment rates for Routine Home Care
  - May vary based on type and duration
- Establish an outlier payment policy
- Eliminate coverage of home health aide services in an SNF or NF
- Wage-adjust aggregate cap
- Create a short-term home-based respite benefit
- Establish payment for high-cost complex palliative care treatments, e.g. dialysis; blood transfusions
- Modify inpatient respite coverage
- Include transitional inpatient respite care period
- Deny payment for hospices that do not submit quality data

15

## Hospice Program Integrity Reform: Blumenauer Proposal

- Nationwide 5-year Medicare hospice enrollment moratorium
  - Need/access exceptions
- Increase medical review/audit/surveys
  - Prepay review after first 90-day benefit period where aberrant billing behavior
  - Extend PPEO authority
  - Increase new hospice survey frequency
  - Expanded prepay review for hospices with high percentage of long stays and live discharges
  - Prepay reviews on services unrelated to terminal conditions
- Prohibit certifications from physicians with hospice ownership, employment, or financial relationship
- Adds hospice to “Stark” law

16



## Hospice Program Integrity Reform: Blumenauer Proposal

- Limit physician to serving as Medical Director to no more than two hospice programs
- Require immediate availability of medical director or physician IDT member for home telehealth visit
- Extends “36-month rule” on changes in majority ownership to 60 months
- Require hospices to automatically provide the Election Statement Addendum to all patients
- CMS require to provide Notice of Election within 15 days to all hospice electees

17

## Hospice Other Reforms: Blumenauer Proposal

- Medical Review
  - Specialized hospice training for contractor staff
  - Congressional report on steps to reduce audit burden and erroneous claim denials in hospice
- Ownership Transparency
  - Publish hospice ownership and managing control data
  - Congressional report on ownership and control trends and role of private equity
- Nurse Practitioners
  - Permit NPs acting as attending physician to certify terminal illness
- Telehealth
  - Prohibit F2F recert visits via telehealth
- Hospital Discharge Planning
  - Require hospice evaluation, including transitional respite care

18

## Medicaid HCBS Rule

- Applies to certain HCBS waiver programs and care workers
  - Home health aide
  - Personal care attendant
  - homemaker
- Finalizes proposal that 80% of payment rate make up compensation to Direct Care Workers (in the aggregate)
  - Expanded inclusion of costs under the definition of “compensation” (FICA)
  - Excludes certain costs from the calculation, e.g. training, nursing supervision, mileage
  - Permits exemptions of providers based on “hardship,” size, or rural location
  - Applies on a provider-specific basis
- 6-year phase-in for states (4-year phase-in proposed)
- Analyses shows compliance difficult
  - Final modifications do ease compliance standards a bit

19

## Medicaid HCBS Rule

- Rule may be subject to challenges
  - Congressional Action
  - Litigation
- Rule includes numerous other positive elements
  - Improved rate evaluation and transparency standards
  - Appeal rights
  - HCBS quality measures requirements
- <https://public-inspection.federalregister.gov/2024-08363.pdf>
- Medicaid Managed Care rule
  - <https://public-inspection.federalregister.gov/2024-08085.pdf>

20

## Private Duty Personal Care

- Limited regulation continues, but more may be on the horizon
- Staffing shortages continue to haunt community
- State-based minimum wage increases pose some challenges
- US DoL continues FLSA audits and prosecutions
  - Overtime compensation dominates focus
  - Independent contractors
  - Home care aide model employment contract
- FTC non-compete ban
- Some MA plans drop personal care as benefit add-on
- Demand showing no signs of slowing

21

## Home Care Innovations and Reforms: Status Report

- Choose Home (SNF at Home)
- Hospital at Home demonstration
- Telehealth services
- Medicaid HCBS supports
- VA home care
- Workforce improvement
- Medicare Advantage
  - Hospice VBID; United drops participation
  - Provider service and payment relationships

22

## Forecast

- Demand and interest HIGH
- Supports at risk in government funded programs
- Value will eventually drive action with managed care
- Marketplace continues to be very interesting

23

## NAHC-NHPCO ALLIANCE

- General status
- Structure
- Branding
- CEO Search
- Communities/Councils
- Integration

24