

**CY 2023 Home Health Prospective Payment System
Rate Update and Home Infusion Therapy Services
Requirements Proposed Rule (CMS-1766-P)**


**Overview
6/20/2022**

Procedural Timeline

- Rule released **June 17** (scheduled for publication in **June 23** Federal Register)
- Comment deadline: **August 16**
- Final rule expected on or before **November 1**





Proposals and Updates to the HH PPS for CY 2023

CMS-reported topline numbers (CY 2022 v. proposed CY 2023):

Home health payment update percentage (estimated market basket update of 3.3%, reduced by a 0.4% estimated productivity adjustment)	+2.9%	\$560 million increase
Permanent behavioral assumption adjustment  of -7.69%	-6.9%*	\$1.33 billion decrease
Update to the fixed-dollar loss ratio (FDL) used in determining outlier payments	-0.2%	\$40 million decrease
Aggregate effect on Medicare payments in CY 2023	-4.2%	-\$810 million

*The effect of the permanent behavioral adjustment on all payments does not equal the proposed 7.69% because the proposed 7.69% adjustment only applies to the national, standardized 30-Day period payments and does not impact payments for 30-day periods which are LUPAs.

Behavioral Assumptions and Permanent & Temporary Adjustments

Year	Original Behavioral Assumptions	Permanent Adjustment	Temporary Adjustment
2020	-4.36%	n/a	n/a
2021	-4.36%	None applied	None applied
2022	-4.36%	None applied	None applied
2023	-4.36%	-7.69% 	None proposed, but comments sought on how to reconcile retrospective overpayments of \$2,020,996,579 total for 2020 and 2021
2024	-4.36%	-7.69% (subject to adjustment based on updated data)	Significant negative adjustment  (~15%+ to offset 2020-2023 (could be over multiple years))
2025	-4.36%	-7.69% (subject to adjustment based on updated data)	 Significant negative adjustment
2026	-4.36%	-7.69% (subject to adjustment based on updated data)	 Significant negative adjustment

CY 2023 Annual Payment Update

CY 2022 National Standardized 30-Day Period Payment	Permanent Behavioral Assumptions Adjustment Factor	Case-Mix Weights Budget Neutrality Factor	Wage Index Budget Neutrality Factor	CY 2023 HH Payment Update	CY 2023 National, Standardized 30-Day Period Payment
\$2,031.64	0.9231	0.9895	0.9975	1.029	\$1,904.76

Multi-Step Process for Behavioral Assumption Adjustments

Statutory Requirement	Years in Play Now	Action in FY 2023 Rule
For 2020, make assumptions about behavior changes that could occur as a result of the implementation of the 30-day unit of service and the case-mix adjustment factors that eliminated the use of therapy thresholds. (1895(b)(3)(A)(iv))	Payment for CY 2020 and beyond	None
Determine the impact of differences between assumed behavior changes and actual behavior changes on estimated aggregate expenditures for 2020-2026 (1895(b)(3)(D)(i))	Data available now means CMS is making this determination for CYs 2020-2021	Methodology for making this determination proposed
Make permanent payment adjustment to the 30-day payment rate to offset differences (1895(b)(3)(D)(ii))	Payment for CY 2023 and all future years	Proposed adjustment (-7.69%)
Make temporary payment adjustment to the 30-day payment rate to offset differences (1895(b)(3)(D)(iii))	Likely for payment for CY 2024 and beyond	Comment solicitation on how to make adjustment in the future

CMS statements on legal obligations:

- We believe using the methodology described previously in the CY 2022 HH PPS proposed rule (85 FR 35890 through 35892 and in this proposed rule, best satisfies our interpretation of section 1895(b)(3)(D)(i) of the Act.
- Upon continued review of what the law requires us to do in regards to determining the difference between assumed versus actual behaviors on estimated aggregate expenditures, we continue to believe that the best reading of the law requires us to retrospectively determine if the 30-day payment amount in CY 2020 resulted in the same estimated aggregate expenditures that would have been made if the change in the unit of payment and the PDGM case-mix adjustment methodology had not been implemented.
- Furthermore, if the estimated aggregate expenditures are determined not to be equal, we are required, by law, to make permanent and temporary adjustments to the PDGM payment rate so that the expenditures across the two payments systems would be equal.
- Most of the alternate methodologies [suggested by commenters] controlled for certain actual behavior changes (for example, the reduction in therapy visits) and this is not in alignment with what the statute requires at section 1895(b)(3)(D)(i) of the Act where we must examine actual behavior change. Therefore, any method that would control for an actual behavior change would be counter to what is required by law.
- By law, we are required to ensure that estimated aggregate expenditures under the HH PPS during CY 2020 are equal to the estimated aggregate expenditures that otherwise would have been made under the HH PPS during CY 2020 in the absence of the change to a 30-day unit of payment. Regardless of the magnitude and frequency of individual behavior change (for example, LUPAs, therapy, etc.), the occurrence of any behavior change is captured by the methodology to determine the impact on aggregate expenditures.

Proposed Methodology for CYs 2020 through 2026

- Simulate 60-day episodes priced using the pre-PDGM payment system parameters to determine what the estimated aggregate expenditures would have been in the absence of the PDGM and a 30-day unit of payment.
- Compare resulting estimated aggregate expenditures from the pre-PDGM payment system to actual aggregate expenditures from the PDGM 30-day periods.
- Determine if adjustments are needed to offset differences.

Results of Methodology for CYs 2020 and 2021

	CY 2020	CY 2021
Estimated aggregate expenditures under pre-PDGM HH PPS	\$14,297,150,005	\$15,343,249,798
Actual estimated aggregate expenditures (PDGM)	\$15,170,223,126	\$16,491,173,256
Actual 30-day base payment rate (based on assumed behavior)	\$1,864.03	\$1,777.19*
Recalculated 30-day base payment rate, set to equal aggregate expenditures calculated using simulated 60-day episodes	\$1,742.52	\$1,754.88
Percent change between the two payment rates (basis for permanent adjustment)	- 6.52%	-1.26%
Difference in aggregate expenditures (retrospective dollar amount needed to offset past payments through temporary adjustment)	- \$873,073,121	-\$1,147,923,458

*The actual CY 2021 base payment rate was \$1,901.12. This amount accounts for the -6.52 percent prospective adjustment that determined for CY 2020.

Italics above indicate numbers appear in CMS's individual year determinations but that differ from combined proposal for CY 2020 and 2021.

CMS findings related to therapy utilization

- There have been changes in the distribution of both therapy and non-therapy visits in CY 2021 compared to CY 2020. The percent of 30-day periods with seven or less therapy visits during a 30-day period increased in CY 2021 compared to CY 2020.
- The number of therapy visits declined in CYs 2020 and 2021. However, the data also indicates a slight decline in therapy visits began in CY 2019 after the finalization of the removal of therapy thresholds, but prior to implementation of the PDGM. This suggests HHAs were already beginning to decrease their therapy provision. Although not originally one of the three finalized behavior assumptions, the decline in therapy utilization is indicative of an additional behavior change.
- To evaluate how the decrease in therapy visits related to payments, CMS compared average case-mix weights of CY 2018 actual 60-day episodes to CY 2021 simulated 60-day episodes. After controlling for therapy levels, CMS determined the change in 60-day episode case-mix weights were largely driven by therapy utilization. The decrease in therapy visits led to a decrease in case-mix weight, and therefore a decrease in aggregate expenditures under the pre-PDGM HH PPS.
- CMS notes that many commenters indicated the estimated aggregate expenditures calculated with simulated 60-day episodes (pre-PDGM) is inaccurate because it does not control for the payment incentives which would have been present under the old system. CMS responds by noting that the PDGM is not limiting or prohibiting the provision of therapy services or the number of home health periods of care, and regardless of the case-mix system in place, HHAs should continue to provide the most appropriate care to Medicare home health beneficiaries.

CMS notes on access to Home Health

- The CY 2021 national, standardized 30-day period payment rate was \$1,901.12, which is approximately 34 percent more than the estimated CY 2021 30-day period average facility cost of \$1,420.35.
- Decline in visits:
 - Note that in the CY 2020 HH PPS final rule with comment period (84 FR 60484), the average number of visits for a 30-day period of care in 2017 was estimated to be 10.5 visits for non-LUPA, non-PEP 30-day periods of care. Using actual CY 2021 claims data, the average number of visits in a non-LUPA-non-PEP 30-day period of care was 8.81 visits – a decrease of approximately 16 percent.
- We recognize that with the COVID-19 public health emergency (PHE), the 2020 data on the Medicare cost reports may not reflect the most recent changes such as increased telecommunications technology costs, increased personal protective equipment (PPE) costs, and hazard pay.
- In its March 2022 Report to Congress, MedPAC assumed a cost growth of 3.47 percent for both CY 2021 and CY 2027(2). Furthermore, MedPAC noted that for more than a decade, payments under the HH PPS have significantly exceeded HHAs' costs primarily due to two factors. First, agencies have reduced the average number of visits per episode to reduce episode costs. Second, cost growth in recent years has been lower than the annual payment updates.

COVID Comment Solicitation on Methodology

- CMS is soliciting comments on how the COVID-19 PHE may have impacted service provision in a manner not reflected in the proposed methodology.
- We expect that such comments will include empirical evidence to support the commenter's position on how the COVID-19 PHE affected provider behavior.

Additional proposed updates to the HH PPS

- Proposed ICD–10– CM Diagnosis Code Reassignments to a PDGM Clinical Group or Comorbidity Subgroup
 - CMS solicits comments on all of the proposed clinical group and comorbidity subgroup reassignments described
- Proposed CY 2023 PDGM LUPA Thresholds and PDGM Case-Mix Weights
 - LUPAs:
 - Visit patterns have stabilized; data analysis indicates that visits in 2021 were similar to visits in 2020.
 - CMS believe that CY 2021 data will be more indicative of visit patterns in CY 2023 rather than continuing to use the LUPA thresholds derived from the CY 2018 data pre-PDGM and therefore proposes to update the LUPA thresholds for CY 2023 using data from CY 2021.
 - Functional Impairment Levels:
 - CMS proposes to use CY 2021 claims data to update the functional points and functional impairment levels by clinical group.
 - CY 2023 Comorbidity Subgroups
 - Recalibration of PDGM Case-Mix Weights
 - CMS uses CY 2021 data to recalibrate case-mix weight and Low Utilization Payment Adjustment (LUPA) thresholds for each of the 432 payment groups under the PDGM.

Additional proposed updates to the HH PPS

- CY 2023 Home Health Market Basket Update for HHAs
 - Market basket and productivity adjustment applies
- Proposed Permanent Cap on Wage Index Decreases
 - 5% cap on negative wage index changes (regardless of the underlying reason for the decrease) for home health agencies
 - Intended to increase predictability in home health payments/smooth year-to-year changes in the pre-floor/pre-reclassified hospital wage index
 - Consistent with approach CMS has taken in other payment systems

Comment Solicitation on Collection of Data on the Use of Telecommunications Technology under Medicare Home Health

- CMS finalized policy changes regarding the use of services furnished via telecommunications systems in the CY 2021 HH PPS final rule.
- However, the collection of data on the use of telecommunications technology under the home health benefit is limited to a broad category of telecommunications technology costs under administrative costs on the HHA cost reports (reported at the agency level).
- This proposed rule solicits comments on the collection of data on the use of such services furnished using telecommunications technology on the home health claims (at the individual beneficiary level).
- Collecting data on the use of telecommunications technology on home health claims would allow CMS to analyze the characteristics of the beneficiaries utilizing services furnished remotely, and could give us a broader understanding of the social determinants that affect who benefits most from these services, including what barriers may potentially exist for certain subsets of beneficiaries.

Home Health Quality Reporting Program

- CMS is proposing to end the suspension of non-Medicare / non-Medicaid data for HHA patients.
- HHAs would be required to submit all-payer OASIS data for purposes of the HH Quality Reporting Program (QRP), beginning with the CY 2025 program year.
- Request for Information: Health Equity in the HH QRP
 - CMS is seeking stakeholder feedback on a “work around” health equity measure development for the Home Health QRP and the potential future application of health equity in the Expanded HHVBP Model’s scoring and payment methodologies.

Home Health Value-Based Purchasing (HHVBP)

- For the Expanded HHVBP Model, CMS is proposing to:
 - add definitions for HHA baseline year and Model baseline year, and remove the previous definition of baseline year;
 - change the HHA baseline year from CY 2019 to CY 2022 for existing HHAs with a Medicare certification date prior to January 1, 2019, and from 2021 to 2022 for HHAs with a Medicare certification date prior to January 1, 2022 starting in the CY 2023 performance year; and,
 - change the Model baseline year from CY 2019 to CY 2022 starting in CY 2023.

Updates to the Home Infusion Therapy Benefit for CY 2023

- The statute requires an annual update equal to the percent increase in CPI-U for the 12-month period ending with June of the preceding year, reduced by the productivity adjustment for CY 2023.
- The CPI-U for June 2022 was not yet available at the time of this proposed rule.