
MEMORANDUM

To: AAHKS

From: Epstein Becker & Green, P.C.

Date: March 31, 2020

Re: Executive Summary of CJR Updates in the Proposed Rule “Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency”

On March 31, 2020, The Centers for Medicare & Medicaid Services (“CMS”) released an Interim Final Rule that seeks to mitigate the impact of the COVID-19 Public Health Emergency (“PHE”) on Medicare payment policies and models. The Interim Final rule (“IFR”) makes numerous changes across multiple Medicare programs for different categories of providers and plans. The following is a summary of interim proposals regarding the Comprehensive Care for Joint Replacement (“CJR”) Model. CMS is accepting feedback and comments until May 31, 2020.

The IFR included only two changes to CJR to support the continuity of model operations and to ensure that CJR participants do not unfairly suffer financial consequences from the impact of COVID-19 due to their participation in CJR.

I. 3 Month Extension of CJR Performance Year 5

CMS will extend the CJR Performance Year (“PY”) 5 by 3 months. Rather than the performance year ending on December 31, 2020, it will end on March 31, 2021. CMS believes the extension will help reduce additional disruptions to the standard care procedures hospitals have in place during the public health emergency.

II. Includes PHE in the CJR Model’s Extreme and Uncontrollable Circumstance Policy

The CJR Program currently has in place an Extreme and Uncontrollable Circumstances policy, wherein impacted CJR participating hospitals have their actual episode payments capped at their target prices for fracture and non-fracture episodes. This policy is intended to ensure that participating hospitals are not held financially liable for episode costs that increase due to an extreme or uncontrollable external circumstance. Up to now, this CJR Extreme and Uncontrollable Circumstances policy has only applied to facilities operating within an area of a Disaster Declaration (FEMA designation for natural disasters, such as, hurricanes, earthquakes, wildfires) and therefore does not cover hospitals impacted by the COVID-19 pandemic.

CMS recognizes that with most elective procedures halted at the nation's hospitals, CJR participants are no longer performing elective joint replacements but they are continuing joint replacements for emergency non-elective fractures. To mitigate the adverse impact under the CJR, CMS is now broadening its Extreme and Uncontrollable Circumstances policy to cover facilities within an emergency area for episodes that overlap with the emergency period. This includes the current March 13, 2020 Presidential declaration of a COVID-19 National Emergency.

Specifically, CMS states that for a fracture or non-fracture episode with a date of admission to the anchor hospitalization that is on or within 30 days before the date that the emergency period begins or that occurs through the termination of the emergency period, actual episode payments are capped at the target price determined for that episode. In the present case, this policy applies to all CJR participants nationwide.
