



Upper Payment Limits for Hospitals: Proposed Recommendations

Medicaid and CHIP Payment and Access Commission

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Overview

- Background on upper payment limit (UPL) rules
- Review of MACPAC findings
- Proposed recommendation package
 - Certifying that UPL data are accurate and complete
 - Making UPL data publicly available
- Next steps

UPL Background

- The UPL is an upper limit on aggregate FFS payments for a class of providers
 - The UPL is based on a reasonable estimate of what Medicare would have paid for the same services
 - If base payments are below the UPL, states can make UPL supplemental payments to make up the difference
- States make UPL payments to hospitals, nursing facilities, physicians, and other providers

UPL Demonstrations

- In 2013, CMS issued guidance requiring states to demonstrate compliance with UPL requirements annually
 - CMS developed templates for states to submit provider-level data in a standard format
 - These templates are required for state fiscal year (SFY) 2019 and subsequent years
- MACPAC obtained hospital-level UPL data for SFY 2016 for 47 states and the District of Columbia
 - We compared state-reported data to actual spending
 - We also spoke with CMS and several state officials

MACPAC Findings

- In 17 states, the actual amount of UPL payments made in SFY 2016 exceeded the state-calculated UPL by \$2.2 billion in the aggregate
- CMS does not have a process to certify that UPL demonstration data are accurate and complete
- Many states use methods of calculating the UPL that appear to result in limits that are higher than what Medicare would have paid

Proposed Recommendation 1

- The Secretary of the U.S. Department of Health and Human Services (HHS) should establish a process to certify that annual hospital UPL demonstration data are accurate and complete so that states and HHS can use the limits calculated with these data to ensure that actual spending is below the UPL

Recommendation 1: Rationale

- The UPL is intended to provide an upper limit on Medicaid payments to providers
- Existing information is not reliable
- UPL data could be certified by states, CMS, or an independent entity
 - CMS should consider approaches that minimize the risk that UPL payments are recouped retrospectively
 - Both states and CMS have responsibilities to ensure that claimed expenditures do not exceed the UPL

Recommendation 1: Impact

- Federal government
 - If CMS determines that overpayments were made, it could recoup federal funds
 - CBO does not assume federal budget savings for proposals that enforce existing policy
- States
 - May affect state administrative effort
- Providers
 - If CMS determines that overpayments were made, it could result in reduced funding for some providers
- Enrollees
 - Effects depend on how providers respond

Proposed Recommendation 2

- To help inform development of payment methods that promote efficiency and economy, the Secretary of HHS should make hospital UPL demonstration data and methods publicly available in a standard format that enables analysis

Recommendation 2: Rationale

- UPL payments were the largest type of hospital supplemental payment reported in fiscal year 2017, but we do not have data on how the \$13.1 billion in UPL payments was spent
- CMS already publicly reports hospital-specific data on DSH payments
- This recommendation builds on MACPAC's prior recommendations
 - UPL demonstrations are an existing data source that can be reported without creating a new system
 - Data can support analyses of changes in payment policy

Recommendation 2: Impact

- Federal government
 - No change in federal spending expected
 - Increased federal administrative effort
- States
 - Limited effect because states already provide this information to CMS
- Providers and enrollees
 - No direct effect

Next Steps

- Plan to vote on recommendations at the January public meeting
- Recommendations will be accompanied by a chapter that describes the Commission's analyses and findings
- Potential future work exploring changes to the methods that states can use to calculate the UPL



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