LTACH Certification Criteria Legislation

By:

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Introduction

On September 28, 2006 Congressman Phil English of Pennsylvania and Congressman Earl Pomeroy of North Dakota introduced legislation, H.R. 6236, proposing to create certification criteria for America's long term acute care hospitals ("LTACH"). The bill was referred to the House Ways and Means Committee.

While this bill may slow recent growth in long term acute care hospital spending, it is crucial that responsible healthcare providers in the LTACH industry work together to ensure that LTACHs remain an integral part of the Medicare continuum of care.

LTACH Background

Long term acute care hospitals have become essential to an effective continuum of care as a key venue within a health system. A LTACH, in general, is defined in Medicare law as a hospital that has an average inpatient length of stay of more than 25 days. Congress created long term acute care hospitals to care for the small population of extremely ill patients for whom the cost of care is beyond the scope of the majority of short term acute care general hospitals.

Long term acute care hospitals provide extended, vital, intensive medical care to patients who are clinically complex and suffer from multiple acute or chronic conditions. LTACHs serve a valuable role in the continuum of American healthcare by caring for critically ill patients who require a longer than usual hospital stay.

Ideally, a long term care hospital operates within a total healthcare system to complete the full continuum while providing a venue of care where the patient can be treated for an extended length of stay with commensurate reimbursement. In the case management of long term acute care hospitals, it is important to have the appropriate patients for the particular high level of care provided in the LTACH environment.

Throughout Murer Consultant's extensive management experience with LTACHs, I have always recommended the following conditions as appropriate for treatment in the LTACH post-acute venue:

- Medically Complex
- Respiratory Disorders Including Tracheostomy
- Ventilator Dependent
- Cardiac/Cardiovascular Conditions
- Renal Disease
- Oncology
- Re-constructive and Extended Post Surgical Care

It is important that LTACHs only treat medically complex Medicare beneficiaries. This is crucial to rationalize the entire post-acute sector of healthcare including inpatient rehabilitation facilities, home health, and skilled nursing facilities. Patients in need of lower-acuity rehabilitation and psychiatric services are best treated in these other settings and should not be admitted as LTACH patients.

Scrutiny and Industry Reaction

More than two years ago, Congress first expressed concern about the growing number of long term acute care hospitals. In June 2004, MedPAC, a research body that reports to CMS and Congress, made recommendations to Congress calling for "patient" and "facility" LTACH certification criteria to better define the appropriate role of LTACHs in the post-acute continuum and to remedy alleged overpayments to LTACH facilities.

Since this time, the LTACH industry has faced continued scrutiny from government agencies and lawmakers over the past year, much of the scrutiny focusing on hospital-within-hospital LTACHS. Earlier this year, MedPAC recommended that LTACHs receive no payment update for 2007. This recommendation was prompted by the high profit margins the industry has garnered treating Medicare patients.

The high profit margins coupled with alleged fraud and abuse concerns surrounding LTACHs co-located with other facilities have strained relations between the industry and the current administration. The administration has concerns that LTACHs often admit patients that should remain in shorter-term acute care facilities or would be better suited in other less expensive post-acute care settings, like inpatient rehabilitation facilities or skilled nursing facilities.

This type of negative scrutiny incited counterpart LTACH trade associations, ALTHA (Acute Long Term Hospital Association) and NALTH (National Association of Long Term Hospitals), to circulate proposals among congressional

lawmakers in early September urging enactment of legislation establishing specific criteria for LTACH patients.

The ALTHA legislation received better favor on Capitol Hill and was subsequently introduced on September 28, 2006. The legislation comes as many in the LTACH industry are seeking baseline patient and facility criteria for LTACHs in the face of the congressional and administration concerns.

The ALTHA bill endorses the principle that patients should be cared and paid for in the most appropriate clinical setting. Patients who can be safely and effectively treated in less intensive post-acute facilities should not be treated in a long term acute care hospital.

It is the LTACH industry's hope that the new legislation will help eliminate CMS concerns about the value of LTACHs and remove uncertainty about the financial future of LTACHs under Medicare. ALTHA representatives believes the bill will ensure the appropriateness of admissions to LTACHs, which would therefore cut Medicare cost by moving all lower acuity patients to less expensive post-acute facilities.

Summary of Bill

The English-Pomeroy legislative proposal contains several provisions including: additional long-term care hospital certification criteria, a LTACH quality indicator reporting initiative, and codification of certain LTACH prospective payment system elements.

Key Provisions of H.R. 6236
▪ **The institution of LTACH admission screening and assessment tools to ensure the admission of only medically complex patients** ▪ **Required admission of a high percentage of patients with specified high-acuity medical conditions** ▪ **The institution of a quality indicator reporting initiative requiring LTACHs to collect and submit quality measure data determined by the Secretary of Health & Human Services or face a reduction in Medicare reimbursement for the year** ▪ **Maintenance of the 25-day average stay for Medicare patients**

The major goal of the bill is a stricter screening of Medicare beneficiaries appropriate for treatment at a long term acute care hospital. Additionally, the bill pushes LTACHs to maintain a 25 day length of stay for Medicare patients.

One of the more controversial portions of the bill forces hospitals to maintain a mandatory minimum percentage of high-acuity cases delineated by certain diagnostic related groups ("DRGs"), which are associated with higher severity medical conditions. The legislation requires the administration to designate LTACH DRGs related to specific qualifying conditions and requires each LTACH facility to service a minimum percentage of 50-75% of patients falling into these specific DRGs.

The bill states that the selection of these long term care diagnoses will be associated with a high severity of illness for the following medical conditions:

- Circulatory conditions;
- Digestive, endocrine, and metabolic conditions;
- Infectious disease;
- Neurological conditions;
- Renal conditions;
- Respiratory conditions;
- Skin conditions; and
- Other medically complex conditions as defined by the Secretary.

Opposition to the Bill

The only current opposition to the bill rests in the utilization of specific DRGs to determine the appropriate level of high acuity patient mix. Opponents argue that DRGs are "gameable" and not specific enough in all circumstances to distinguish which patients require the high-acuity services of LTACHs. NALTH believes that DRGs have not been developed to define hospitals and that the use of DRGs in and of themselves does not discriminate sufficiently enough between cases that have both high and low resource use within the DRG.

NALTH representatives fear that the current proposed legislation could result in a definition of a LTACH that could change year to year and possible destabilize the LTACH industry. Thus, NALTH has been promoting a competing proposal to lawmakers for months, but no bill has yet been introduced by NALTH. NALTH's proposal, like the ALTHA legislation, would push CMS to provide LTACHs with budget-neutral DRG weights and wage adjustments annually. However, the NALTH proposal would not link the medically necessity of admissions to specific DRGs and instead push for a broader review of the medical necessity of services that in LTACHs.

Conclusion

On September 13, 2006 before the annual Washington conference of ALTHA, CMS Center for Medicare Management Director Herb Kuhn faced off against concerns that the agency has it in for the LTACH industry. Kuhn informed the industry representatives that the administration is most focused on crafting an "appropriate" payment structure and "getting the full value" from each Medicare dollar. Much of that process, Kuhn said, hinges on the establishment of baseline criteria for LTACH facilities to assess which patients are appropriate for admissions into LTACHs and which should receive care from other, cheaper acute care facilities.

Thus, certification criteria are the appropriate response to CMS' concerns regarding long term acute care hospitals. Despite the disagreement between trade associations regarding the specifics on LTACH certification criteria legislation, it is essential for the LTACH industry to unite in order to ensure that only medially complex cases are treated in LTACHs. This strategy will help ease CMS doubts about the value of LTACHs and potentially solidify Medicare payments for the future.

About the Author:

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