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DEBATE SERIES

LONG-TERM CARE HOSPITALS SITE NEUTRAL PAYMENT

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In 2013, Congress passed revised Long-Term Care Hospital (LTCH) criteria which reimagined the LTCH sector and required LTCHs to focus on the highest-acuity patients. Prior to enactment of the new criteria, LTCHs had ten years to prepare for "site-neutral" payments (lower LTCH payments for lower-acuity patients) and the "50/50 Rule" (lower payments for LTCHs who treated more lower-acuity, site-neutral patients than higher-acuity, criteria-compliant patients).

In 2020, as the pandemic unfolded, Congress was looking to add hospital capacity and suspended LTCH site-neutral payment (SNP) and the LTCH 50/50 rule as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. The suspension of both these rules will continue as long as the COVID-19 Public Health Emergency (PHE) continues. Once the PHE expires – possibly in summer 2022 – both LTCH rules will return. Some LTCHs would like to see the SNP rules suspended indefinitely. Here we examine the arguments for and against.

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"The 1918 Spanish flu was still wreaking havoc on the U.S. healthcare system in 1925. COVID will do the same, and therefore we will need LTCH SNP relief for several more years."

The COVID-19 pandemic has challenged our health system to an extreme and it will be years before our hospitals financially recover. Many hospitals are still operating because of COVID-related regulatory relief. Now is not the time to back away from such relief.

THE LTCH SNP WAIVERS KEEP HOSPITALS FINANCIALLY SOUND

Across the U.S. health care system, America's hospitals have been strapped with most of the burden to treat patients with COVID-19.

- CON -

"The LTCH SNP criteria has refocused the industry on treating high-acuity patients, and we must return to it as soon as possible to preserve its positive momentum."

We are nearing the end of the pandemic phase of COVID-19 and must transition to reflect the current endemic situation. Our economy desperately needs to transition, and ending the PHE, including the LTCH SNP waivers, will help catapult the country into full recovery mode.

THE LTCH SNP WAIVERS PERPETUATE MEDICARE'S FISCAL CHALLENGES

The Medicare Trustees project the Hospital Insurance (HI) Trust Fund will be insolvent or

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Hospitals have admitted nearly 4.5 million COVID-19 patients since August 1, 2020.[P.1] For a subset of these hospitalizations, the Medicare program has spent $23.4 billion.[P.2] Despite federal support during the pandemic, rural hospitals currently have a median of only 33 days cash on hand.[P.3]

Even before the pandemic began, the LTCH industry was undergoing major financial changes. There were 436 LTCHs in operation in 2012 and by 2018, 78 of those LTCHs had closed.[P.4] Between 2016 and 2017, Medicare payment per LTCH stay declined 6.8 percent and remained below 2015 levels in 2018 and 2019.[P.5] Meanwhile, LTCH costs per stay increased 2.9 percent in 2018 and 4.4 percent in 2019.[P.6] The 2020 LTCH SNP waiver has been a financial life-line and without it, many more LTCHs may no longer be financially viable.

THE LTCH SNP WAIVERS SUPPORT CLINICALLY COMPLICATED DISCHARGES

When comparing 2020 expenditures to 2019, LTCHs were the only hospital type with increasing quarterly Medicare payment deficits.[P.7] This phenomenon may be best explained by LTCHs specializing in the treatment of so-called "long-COVID" cases. LTCHs specialize in the same key clinical competencies needed by the long-COVID population, including high ratios of

[P.1] COVID-19 Snapshot. *American Hospital Association*. February 17, 2022. Accessed on February 21, 2022.
[P.2] Preliminary Medicare COVID-19 Data Snapshot. *Centers for Medicare & Medicare Services*. January 26, 2022. Accessed on February 21, 2022.
[P.3] Crises Collide: The COVID-19 Pandemic and the Stability of the Rural Health Safety Net. *The Chartis Group*. Accessed on February 16, 2022.
[P.4] Onyango R, Saavoss A, Koenig L. State of Long-Term Care Hospital Sector: Access to Care for Medicare Beneficiaries. *KNG Health Consulting*. June 14, 2019. Accessed on February 16, 2022.
[P.5] Report to Congress: Medicare Payment Policy. Chapter 10: Long-Term Care Hospitals. Medicare Payment Advisory Commission.
[P.6] Ibid.
[P.7] The Impact of the COVID-19 Pandemic on Medicare Beneficiary Use of Health Care Services and Payments to Providers: Early Data for the First 6 Months of 2020. Depart of Health and Human Services Assistant Secretary for Planning and Evaluation.

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unable to cover expenses by 2026.[C.1] As such, scholars have recommended that the U.S. Congress emphasize considerable financial restraint when authorizing legislation that spends HI revenue.[C.2] As one of several COVID-related HI expenses, Congress' authorization of the LTCH SNP waivers (in addition to one waiver for inpatient rehabilitation facilities), is projected to cost $4 billion over the 2020-2030 period.[C.3]

In addition to generating increased spending, continuation of the LTCH SNP waivers threaten to undermine positive efficiencies that have been achieved for the past five years where average LTCH Medicare margins have decreased 4.8 percent.[C.4] The Medicare Payment Advisory Commission (MedPAC) has rightfully questioned the necessity of sector-specific COVID regulatory relief policies (like the LTCH SNP waivers), when providers have received significant separate financial assistance from the CARES Act, including: 1) direct provider relief funds, 2) reimbursement for lost revenues and expenses, 3) accelerated and advanced Medicare payments, 3) employer payroll tax deferral, 4) paycheck protection program, and 5) elimination of the Medicare sequester.[C.5] When considering these five, broad, hospital, financial relief programs, the LTCH SNP waivers are unnecessary and highly duplicative in nature.

THE LTCH SNP WAIVERS REVERSE TARGETED CLINICAL APPROPRIATENESS

The three day ICU or prior ventilator use criteria established by the LTCH SNP policy has resulted in an LTCH population that is

[C.1] 2021 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medicare Insurance Trust Funds. *Centers for Medicare & Medicaid Services*. August 31, 2021.
[C.2] Grabert, L. Saving Medicare: Part A Pay-Go. Morning Consult. March 5, 2021. Accessed on February 21, 2022.
[C.3] Preliminary Estimate of the Effects of H.R. 748, the CARES Act. *Congressional Budget Office*. April 27, 2020.
[C.4] Report to Congress: Medicare Payment Policy. Chapter 10: Long-Term Care Hospitals. *Medicare Payment Advisory Commission*. March 2021.
[C.5] Ibid.

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respiratory therapists and pulmonologists.[P.8] On behalf of long-COVID patients, LTCHs perform services that include mechanical ventilation, noninvasive ventilator assistance, high-flow oxygen therapy, and weaning.[P.9, P.10] The cost of treating COVID-19 patients who require mechanical ventilation is five times higher than that of patients not requiring ventilation.[P.11] The SNP waiver has been instrumental in helping LTCHs manage this cost differential. New research from the Brookings Institute suggests as many as 31 million working-age Americans may have long-COVID and the percentage is likely to increase after accounting for the Omicron surge.[P.12]

THE LTCH SNP WAIVERS EMPHASIZE CONGRESSIONAL INTENT

When Congress enacted the LTCH SNP policy in 2013, it realized the disruptive effects the policy could have on the LTCH sector – thus it chose to implement the new payment policy in a slow, incremental fashion. Congress allowed for nearly a two-year transition period before any payment reductions began on October 1, 2015.[P.13] Once the reduced payment began, Congress afforded an additional two-year transition period that utilized a blended rate consisting of the old payment and the new payment.[P.14]

Still unsure if the LTCH industry was ready for full SNP, in 2018, Congress further extended the

September 28, 2020. HP-2020-01.

P.8 Votto J. Persistent Symptoms in Long-Haul COVID Patients Emphasize Need for Specialty Hospital Care. *Georgetown University*. September 2021. Accessed on February 17, 2022.

P.9 Ibid.

P.10 Grigonis AM, Kusum MS, Benka-Coker WO, Dawson AM, Hammerman SI. Long-Term Acute Care Hospitals Extend ICU Capacity for COVID-19 Response and Recovery. *Chest*. 2021. 159(5): 1894-1901.

P.11 Mechanical Ventilation Adds 5x the Cost to COVID-19 Care. *Premier*. November 19, 2020. Accessed on February 21, 2022.

P.12 Is Long COVID Worsening the Labor Shortage? *Brookings Institute*. January 11, 2022. Accessed on February 21, 2022.

P.13 Grabert L. A Look into the Past to Help Navigate the Future: The History of Medicare's Long-Term Care Hospital Payment System. *Georgetown University*. Accessed on February 16, 2022.

P.14 Bipartisan Budget Agreement of 2013. *P.L. 113-67*. Section 1206. December 26, 2013.

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both more concentrated, and that has a higher average patient acuity than was present before 2013. In 2019, the top 20 LTCH Diagnosis-Related Groups (DRG) made up 76.4 percent of discharges, whereas the top 25 LTCH DRGs made up 64.1 percent of the discharges before the LTCH SNP policy.[C.6, C.7] Further, MedPAC is concerned that the some LTCHs could be using the LTCH SNP waivers as a crutch, allowing them to achieve higher margins than those LTCHs with a higher share of criteria-compliant discharges—the exact opposite intent of the SNP policy.[C.8] Further, those LTCHs who have already fully transitioned to the SNP criteria are likely to see total margins increase during the PHE for lower cost site-neutral cases.[C.9]

THE LTCH SNP WAIVERS SHOULD END WHEN THE PHE ENDS

Experienced researchers who have examined the full Medicare post-acute care space, including LTCHs, rehabilitation hospitals, nursing homes, and home health agencies have concluded that none of the COVID waivers should continue beyond the PHE.[C.10] Given the recently reported Medicare margins across the full post-acute care space, there does not appear to be a compelling reason to continue any of the PAC waivers, including the LTCH SNP waivers, beyond the timeframe of the PHE. If the PHE is ended, the LTCH SNP waivers should also end.

On February 10, 2022, 70 members of the U.S. House of Representatives sent a letter to President Biden urging him to end the PHE.[C.11] There is compelling evidence supporting the need to end the PHE. A recent systematic

C.6 Ibid.

C.7 Report to Congress: Medicare Payment Policy. Chapter 11: Long-Term Care Hospitals. *Medicare Payment Advisory Commission*. March 2015.

C.8 Report to Congress: Medicare Payment Policy. Chapter 10: Long-Term Care Hospitals. *Medicare Payment Advisory Commission*. March 2021.

C.9 Ibid.

C.10 Grabert L, Makam A, Grabowski D. COVID-19 Waivers of Medicare Post-Acute Care Rules Increased Capacity But Should Not Become Permanent. *Health Affairs*. December 6, 2021.

C.11 Rodgers CM. Letter to President Biden and Secretary Becerra. February 10, 2022.

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blended rate for two more years.[P.15] After nearly a six-year transition, the new payment rates began on October 1, 2019 but only remained in place for five months before Congress reverted back to the old payment rates with the LTCH SNP waivers mandated by the CARES Act.

CONCLUSION

The LTCH SNP waivers are justified and will continue to be needed for some time after the U.S. transitions from pandemic to endemic COVID-19 status. Policymakers still do not fully understand the prolonged effects of long-COVID nor how quickly LTCHs will be able to financially recover from the impact of the pandemic. Until we have more quantitative certainty, policymakers should keep the LTCH SNP waivers in place.

[P.15] Bipartisan Budget Act of 2018. *P.L. 115-123*. Section 51005. February 9, 2018.

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review and meta-analysis published by Johns Hopkins University found most federal interventions, including lockdowns, social distancing, and facemasks, were not associated with a statistically significant reduction in mortality.[C.12] This and a growing groundswell of anecdotal evidence about improved treatment pathways, and the milder effects of the Omicron variant, suggest we no longer need the protection of the PHE.

CONCLUSION

The LTCH SNP waivers are no longer justified and should be ended soon, along with the PHE. COVID-related pandemic spending has pushed our economy into a 40-year high inflation rate and we must begin to wind down all superfluous or unwarranted relief programs to help catapult our economic recovery.

[C.12] Herby J, Jonung L, Hanke SH. A Literature Review and Meta-Analysis of the Effects of Lockdowns on COVID-19 Mortality. *Studies in Applied Economics*. January 2022. 200.

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BE THE DIFFERENCE.

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