MAY 2024 * *Reading time: 5 minutes*

Spotlight: Advocate Now for Access to Medicare Advantage Data

The Importance of Accessing All Medicare Advantage Data and Analyzing the Impact of Its Inclusion on Medicare Fee-for-Service Rate-Setting

Introduction

CMS only uses traditional Fee-For-Service (FFS) claims to develop hospital Inpatient Prospective Payment System (IPPS) and Outpatient Prospective Payment System (OPPS) payment rates. Medicare Advantage (MA) claims are not used in rate-setting, yet MA plans utilize Medicare FFS rates as the basis for hospital reimbursement. MA claims are also not available to the public for research and analysis in the way that FFS IPPS and OPPS claims data are.

In recent years, CMS has issued several Requests for Information (RFIs) regarding various aspects of the MA program. In a January 2024 RFI, CMS seeks input regarding all aspects of how data from MA beneficiaries can and should be utilized. Nimitt encourages stakeholders to weigh in and support CMS' access to all MA claims data, and to request that CMS study what impact the exclusion of MA claims has on FFS rate-setting.

Comments can be submitted here and must be received by 11:59 pm (ET) on May 29, 2024.

The Problem

We believe the lack of access and utilization of MA data is problematic for the following reasons:

The Majority of Medicare Beneficiaries Have MA

As of 2024, CMS enrollment data indicate that more than 50% of Medicare beneficiaries are now enrolled in MA plans, reflecting a massive shift from just a decade ago.[1] This trend is expected to continue; the number of beneficiaries enrolled in MA is predicted to exceed 60% by 2030.[2]

The rapid rise in MA beneficiary enrollment in MA plans, and the corresponding decline in enrollment in FFS Medicare, means CMS is no longer using claims that represent the majority of its beneficiaries for rate-setting. For example, in IPPS rate-setting, any decrease in the total number of claims used (particularly for lower-volume DRGs) reduces the likelihood that the pool represents care patterns across the country.

MA Beneficiaries Are Not Evenly Distributed Across the Country

MA enrollment varies significantly across the country, with substantially higher enrollment on the coasts, in populous Southern states (FL, GA, TN, TX), and the upper Midwest (MI, MN, WI).[2] This distribution matters because it means that claims from the country's most populated areas are under-represented in FFS claims when CMS calculates inpatient and outpatient payment rates.

Specialized Care is Often Provided in States that are Under-Represented in the Rate-Setting Data

The states where MA enrollment is the highest are also the states with the largest number of academic and specialized medical centers, which typically lead the country in the adoption of new therapies, techniques, and standards of care—especially for rare and life-threatening conditions.

This could be particularly problematic for treatments like cell and gene therapies because they debut in these locations—meaning that these treatments are largely provided in areas with a high concentration of MA patients, which could result in fewer FFS claims for future Medicare rate-setting.

A Solution

While CMS already has MA inpatient claims, which are available in the form of shadow claims, we believe it should have access to *all* claims for MA beneficiaries—this includes outpatient hospital and professional claims. To increase access to total MA claims data and to understand the impact of continuing to exclude MA claims from IPPS and OPPS rate-setting, Nimitt believes CMS should do the following three things:

1. Publish MA Inpatient Shadow Claims Data

Currently, CMS does not release MA inpatient shadow claims data to the public; therefore, it is impossible for stakeholders to study the impact of excluding MA claims from IPPS rate-setting. For example, CMS' rate-setting calculations resulting only from inpatient FFS data are likely to underrepresent the full Medicare beneficiary population.

A first step towards addressing rate-setting limitations is for CMS to release shadow claims to the public so stake-holders can begin analyzing the data and providing input to the agency.

What are "shadow claims"?

When hospitals bill an MA plan for an inpatient stay, they also submit a copy of that claim to their local Medicare Administrative Contractor to report the patient's inpatient days and to obtain additional reimbursement only payable by FFS. These claims are termed "shadow claims."

2. Study How MA Shadow Claims Impact Rate-Setting

CMS should analyze existing MA shadow claims, and publish the following information as part of the fiscal year 2026 IPPS Proposed Rule:

- MA versus FFS inpatient claims by state
- Impact of incorporating MA claims on:
  - IPPS MS-DRG volumes, especially low-volume MS-DRGs
  - MS-DRG relative weights
  - The fixed loss outlier threshold

3. Require Submission of All MA Claims to CMS

In addition to real-time submission of inpatient shadow claims by hospitals, CMS should obtain all claims data *directly from MA plans*, since the plans already have this information. This may require rule-making or an act of Congress, but it should be done in order for CMS to analyze the impact of using MA claims on rate-setting, such as future OPPS rate-setting.

References

[1] Fuglesten Biniek J, Freed M, Damico A, Neuman T, *Half of All Eligible Medicare Beneficiaries are Now Enrolled in Private Medicare Advantage Plans*, Palo Alto (CA): KFF, May 1, 2023. Online: here.

[2] Neuman T, Freed, M, Fuglesten Biniek J, *10 Reasons Why Medicare Advantage Enrollment is Growing and Why it Matters*, Palo Alto (CA): KFF, January 30, 2024. Online here.

Advocate Now: Click here to submit your comment on the MA RFI!

Stakeholders should use the current Medicare RFI comment period to ask CMS to:

1) immediately release MA IPPS shadow claims to the public so stakeholders can analyze them and provide feedback to CMS;
2) study the impact of including MA shadow claims into IPPS rate-setting and release the findings; and
3) require MA plans to provide CMS with all outpatient and professional claims.