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MEDICARE ADVANTAGE NEWS

# Final 2014 Pay-Rates Notice Spells Relief For MA Plans, but Net Change Is Still Minus

It was a 45-day journey from depression to almost euphoria for the Medicare Advantage industry. A series of changes CMS made in the final 2014 MA payment rates released April 1 compared with the preliminary rates unveiled Feb. 15 reversed much, albeit not all, of the bad news in the earlier notice *(MAN 2/28/13, p. 1)*. The changes demonstrated to some observers CMS's continued commitment to the MA program. They also showed the effectiveness of an industry campaign that drew support from more than 160 members of Congress, including committee chairmen from both political parties, for changes that would reduce the negative effect on MA plans and their enrollees.

The net result, according to analysts and actuaries, is that overall MA plan payments figure to be down about 2% next year versus 7% to 8% in the preliminary notice, although the percentage will vary substantially by the specific county involved (see table, p. 6). This was enough to trigger a huge rally in the stock prices of MA plan operators, including about 9% in Humana Inc.

But even with the beneficial changes, two actuaries and a consultant emphasize to *MAN*, the MA industry still figures to face a very difficult 2014. Had the final numbers come out at the beginning, Pat Dunks, a principal and consulting actuary at Milliman, tells *MAN*, for instance, the MA industry would have been "lamenting" them instead of "doing back flips" because of the "pleasant surprise" about the changes in the final notice from the preliminary one. Moreover, there will be a substantial rise in operational complexity because of the use of "blended" rates in some of the 2014 changes.

Humana, while saying in an April 2 statement it was "pleased" CMS showed in the overall changes that it recognized the potential "significant negative effect" of the preliminary notice, cautioned that "certain of the technical adjustments may still present meaningful challenges in certain geographies."

The key component in the improvement from the original notice was a change in CMS's position about whether it can assume that Congress will delay the huge cut in Medicare physician pay that would occur on Jan. 1, 2014, under the Sustainable Growth Rate (SGR) formula. Congress has acted to halt such SGR-related cuts, which result in substantial reductions in MA pay, for 11 straight years, but CMS previously had maintained it did not have the authority to assume in setting MA pay rates that this will happen again, since it's bound by current law.

The agency altered its position, as the MA industry and many members of Congress had urged, in the final rate notice, and the change turned a 2.2% reduction in base MA rates in 2014 under the old assumptions to a 3.3% or 3.4% increase under the new ones. This decision followed a Congressional Research Service (CRS) report last month stating that CMS has the authority, although it is not required, to assume Congress will block the SGR-mandated cuts again.

CMS insiders indicate to *MAN* that several factors played into its assumption change, which was opposed by the agency's own independent Office of the Actuary. One was the consistent pattern of short-term SGR fixes by Congress that, even though they're not the multi-year fix CMS would like to see, led the agency this year to conclude that not taking a short-term fix into account no longer made sense. Another factor, according to the insiders, is the increasing proportion of MA pay rates that now are based on Medicare fee-for-service (FFS) rates under terms of the health reform law. Many counties will be fully transitioned to 100% of MA pay based on FFS in 2014, and FFS will account for the majority of MA pay in the others, so it's important that CMS projections of FFS spending reflect the agency's best estimate of what it actually will be in 2014, the insiders add.

Dunks terms the CMS policy change a "mild surprise" since the agency had been asked to do this for years and didn't, and says it "takes a big bite out of" the bad news MA plans otherwise would have faced in 2014. Bill MacBain, senior vice president, finance, at Gorman Health Group, LLC, says the CMS turnaround on this issue was worth 4.5 to 5 percentage points in the pay trend. And he tells *MAN* he isn't surprised by the change, since the CRS report gave CMS "cover" to ease the problems for the 25% of Medicare beneficiaries who now are in MA plans.

Another decision unveiled April 1 — in the Call Letter portion of the document — is that CMS will allow a $34 per member per month rise in Total Beneficiary

Cost (TBC) in 2014, up from $30 in the preliminary notice, albeit down from $36 in 2013.

"We got two-thirds of a loaf on that one," quips MacBain. He is "not surprised" by the beneficial change by CMS on TBC, MacBain explains, partly because plans already in effect are limited on how much they can increase member cost sharing by the minimum medical loss ratios that start for MA plans next year. The effects of TBC, he adds, are complicated by the reform-law provisions that mean counties may change payment-reduction "quartiles" from year to year. Since such quartile changes are excluded from TBC calculations, it means MA plans may be able to pass more or less costs on to beneficiaries than the TBC figures would suggest.

But plans even under this revised formula will not be able to offset the full amount of their pay cuts under the new figure, asserts actuary Brian Weible, a principal in Wakely Consulting Group. Since MA plan revenues figure to be down in 2014 and medical costs figure to be rising, it seems like TBC should have been allowed to go up next year from this year's level, he contends, even after the decline in beneficiary cost sharing in Part D resulting from the drop in the deductible and some other member costs are figured in.

### CMS Delays Changes on HRA Usage

One of the most significant changes in the final notice is a delay by at least a year in CMS's plan to disregard starting in 2014 diagnoses that MA insurers obtain via health risk assessments (HRAs) unless they are confirmed by a subsequent clinical encounter. The agency said in the April 1 notice it will postpone "the collection of 'flags'" for these assessments until 2014 dates of service to be used in the 2015 payment year. Responding to numerous comments opposing the change, CMS said in the notice that "we acknowledge that a more detailed definition [of HRAs] will need to be provided for the purposes of data collection and risk adjustment," and that CMS will develop guidance on this.

The agency, though, reiterated that while HRAs may be valuable, "they may sometimes be used as a vehicle to maximize MA revenue without follow-up care or treatment being provided to the beneficiary by the plan."

Pushing back the start of this new provision is "helpful" to MA plans so that they can adjust their processes if needed, Weible says. He suggests that one possible way for CMS to meet its objective might be for plans to get beneficiaries in for subsequent office visits within 60 to 90 days after an HRA.

But Keith Dunleavy, M.D., CEO of health plan data analytics specialist Inovalon, doesn't regard this as a good idea and terms it unlikely that the agency would "mandate utilization that might not be in the best interest of the system or patient." Phone calls from Inovalon clients, Dunleavy tells *MAN*, indicate that MA plans have heard CMS's HRA concerns "quite well" and now need to make sure their HRAs are more comprehensive. Similarly, CMS realizes HRAs produce "lots of positives," he adds.

There is another plus in the notice for MA plans that operate in Puerto Rico. The preliminary notice indicated a change, starting in 2016, to base all plan payments there on Medicare fee-for-service costs for only those Puerto Rican beneficiaries who are enrolled in both Part A and Part B. This proposed change was designed to offset the pay-rate problems that could be caused by the unusually high percentage of beneficiaries there enrolled only in Part A. In the final notice, CMS opted to make the change effective in 2014. CMS insiders say the acceleration resulted from comments it received asking for the modification to be made sooner because of the unique circumstances there.

The result of the speedup, says securities analyst Carl McDonald of Citigroup Global Markets, is that MA pay rates in Puerto Rico will be higher than they would have been otherwise.

One change in the final notice that figures to be a negative for MA plans lies in the phase-in of the new CMS Hierarchical Condition Category (HCC) risk-adjustment model. Instead of doing it in a way the agency mentioned in the preliminary notice that would not impact risk scores for 2014, CMS instead opted for a 75%-25% blended use of the new methodology next year. This will take the bigger portion from the new methodology and only the smaller portion from the 2013 methodology.

"The 75-25 split came out of nowhere," remarks MacBain, and lacks "statistical justification." It will work out worse for MA plans, he tells *MAN*, with a resulting decline in risk scores of perhaps 2.5% or 2.6%, although the percentage will vary by plan. Dunks came up with a similar figure, while Weible put the reduction at about 1.95%.

An added problem with this approach, says Dunleavy, is that coupled with the 50-50 (new methodology versus old) split CMS decided on in the final notice for a change in calculating the "average geographic adjustment" (AGA) for counties, it makes calculations "increasingly complex." He says plans will have to run at least two models at a time to determine the plan-specific effect, which will be based on CMS re-pricing five years of claims using current medical costs and regional differences.

Looking at all the overall changes in the final notice, though, MacBain says, "it looks like the industry lives to fight another day….It's not a bad outcome at all." Weible also expresses relief, saying CMS realized that it had

"MA being strapped in the electric chair, and something had to be done."

Dunks, however, says the final result will have MA revenues in 2014 running about three percentage points behind the cost trend. And Weible, noting that CMS's plan-aiding star rating bonus demonstration ends in 2014 and that the SGR fix then already will have taken effect, asks rhetorically, "When we need to go back to the well next year, what's left in the well?"

Contact Dunks at (262) 796-3413, MacBain at (202) 204-6238, Weible at (727) 259-7470, Dunleavy at kdunleavy@inovalon.com and McDonald at carl.mcdonald@citi.com. View the final rate notice at http://tinyurl.com/cl9txgx. ✧