



## Illinois Hospital Association

June 28, 2007

### **Technical Bulletin #293: Medicare Inpatient Rehabilitation Facility (IRF) Services Medical Necessity Issues; Report on the Impact of the 75% Rule**

Within the past month or so, two issues having significant importance to our rehabilitation members were again highlighted. At the last meeting of the IHA Post Acute Care (PAC) Section, it was pointed out by several members of the committee that Medicare Fiscal Intermediary (FI) reviews of inpatient rehabilitation admissions have yielded a significant number of claims denied for "medical necessity." These reviews go beyond the appropriateness of the Case Mix Group (CMG) assignment or the accuracy of the payment amount. The FIs are looking specifically at whether or not the rehabilitation unit is the appropriate placement for the patient. While the PAC members did mention that approximately half of these denials were reversed on appeal, their concern was that this focused medical necessity review would simply intensify in the future. IHA will continue monitoring developments in this area and communicating with the FIs directly if necessary; however, CMS has given the FIs considerable discretion in establishing Local Coverage Decisions (LCDs) to apply to these cases.

The second issue involves the "75% Rule," and specifically refers to a report authored by the Centers for Medicare and Medicaid Services (CMS). That report suggests that the 75% Rule was instrumental in assuring that Medicare beneficiaries in need of rehabilitative services were receiving those services in inpatient rehabilitative facilities, while those with lower acuity conditions were receiving their cost in more appropriate and less costly settings. For your reference, that report can be accessed at the following web site:  
[http://www.cms.hhs.gov/InpatientRehabFacPPS/Downloads/IRF\\_PPS\\_75\\_percent\\_rule\\_060807.pdf](http://www.cms.hhs.gov/InpatientRehabFacPPS/Downloads/IRF_PPS_75_percent_rule_060807.pdf).

However, here are some highlights from that report:

- Profit margins for inpatient rehabilitation facilities have ranged from 11% to almost 18% from 2002 thru 2005.
- The five categories of IRF diagnoses experiencing the greatest claims volume decrease from 2003 through 2005 are: lower extremity joint replacement, cardiac, osteoarthritis, pain syndrome and miscellaneous. These five categories are associated with conditions that are not generally considered to require the intensive rehabilitation provided by IRFs and can often be more appropriately cared for in less intensive settings, precisely the types of conditions the 75% rule was intended to impact.
- Reasons for the decline in admissions to inpatient rehabilitation facilities include not only the implementation of the 75% rule, but also stricter application of LCDs by Medicare fiscal intermediaries.
- Skilled Nursing Facilities (SNFs) are in a better position to manage patients with musculoskeletal conditions since the expansion of the Medicare Resource Utilization Groups from 44 to 53 in 2006. The additional nine payment categories better compensate skilled providers for patients with both medical and rehabilitative needs, the patients CMS maintains need some level of medical monitoring, but not the intense level provided in the IRF setting.

The overall conclusion of the report is that while IRF utilization has declined by approximately 19% since the 75% rule was re-implemented in 2004, that decline is attributed, not only to the

enforcement of the 75% rule, but also to a more appropriate provider setting (i.e., a skilled nursing facility) or to stricter enforcement of LCDs.

The Illinois Hospital Association will continue to monitor developments in this area. IHA hopes this information is useful to you. If you have any questions or comments, contact [Tom Jendro](#): (630) 276-5516.