End-Stage Renal Disease Prospective Payment System CY 2022 Rule Update

On October 29, 2021, the Centers for Medicare and Medicaid Services (CMS) released the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) Calendar Year (CY) 2022 Final Rule (CMS-1749-F). The final rule's policies largely remained the same as those in the proposed rule, released in July 2021. The final rule made minimal increases to the ESRD PPS base payment rate and finalized positive changes to the ESRD Treatment Choices (ETC) model to encourage providers to reduce disparities in rates of home dialysis and kidney transplants among patients with lower socioeconomic status. The rule becomes effective on January 1, 2022. Additional information is available in a fact sheet. The following chart compares key provisions of the proposed rule and policies finalized in the final rule.

Major Area	Proposed Rule	Final Rule
ESRD PPS	***Base Rate:*** CMS proposed to pay a CY 2022 base rate of $255.55 (an increase of $2.42 from CY 2021). The proposed per treatment payment rate for renal dialysis services furnished by ESRD facilities to individuals with acute kidney injury (AKI) is also $255.55. CMS projected that this rule would impact total payments to all ESRD facilities as follows: • Projection for freestanding facilities: 1.2% increase • Projection for hospital-based ESRD facilities: 1.3% decrease.	**Modified:** The final CY 2022 ESRD PPS base rate is **$257.90** (increased from the proposed rate of $255.55), which is an increase of almost $5 from the CY 2021 base rate of $253.13. The AKI dialysis payment rate is also $257.90. CMS projects that these updates will increase total payments to all ESRD facilities as follows: • Projection for freestanding facilities: **2.5%** increase • Projection for hospital-based ESRD facilities: **3.3%** increase.
	Wage Index: CMS proposed an update to the ESRD PPS wage index based on the U.S. Office of Management and Budget (OMB) delineations with a two-year transition period: • The proposed CY 2022 labor-related share is 52.3%.	**Finalized as proposed:** CMS is updating wage index values based on the latest available data and continuing the two-year transition to the OMB delineations. CMS did not receive any comments on the proposal to continue using a labor-related share of 52.3% for CY 2022. CMS finalized the continued use of a 52.3% labor-related share.

Major Area	Proposed Rule	Final Rule
	Outlier Policy: CMS proposed updates to the outlier policy and outlier services fixed-dollar loss (FDL) amounts as well as the Medicare allowable payment amount (MAP): • The proposed FDL amount (which determines the outlier threshold amount) for pediatric patients would decrease from $44.78 to $30.38, and the MAP amount would decrease from $30.88 to $28.73. • For adult patients, the proposed FDL amount would decrease from $122.49 to $111.18, and the MAP amount would decrease from $50.92 to $47.87	**Modified:** CMS finalized the following FDL and MAP amounts for pediatric and adult patients, based on the latest available data: • For pediatric beneficiaries, the final FDL amount will decrease from $44.78 to **$26.02**, and the MAP amount will decrease from $30.88 to **$27.15**. • For adult beneficiaries, the final FDL amount will decrease from $122.49 to **$75.39**, and the MAP amount will decrease from $50.92 to **$42.75**.
Transitional Add-On Payment for New and Innovative Equipment and Supplies	***TPNIES:*** CMS assessed two applications for transitional add-on payment for new and innovative equipment and supplies (TPNIES), finding support in the applications for all requirements except the "substantial clinical improvement" requirement (stating concerns based on the data presented). CMS did not make an ultimate decision on the applications, and sought stakeholder comment on the applications.	**Modified:** CMS approved TPNIES for Outset Medical, Inc.'s Tablo® System home dialysis machine. CMS affirmed that the Tablo® System is a substantial clinical improvement over current home hemodialysis technology. Facilities will receive additional reimbursement (for two years) per treatment when one machine is used per patient in the home. The other application discussed in the proposed rule was withdrawn from consideration because it did not receive U.S. Food and Drug Administration marketing authorization by the required date.
ESRD Quality Incentive Program	***QIP Measure Suppression:*** CMS proposed to suppress the use of certain ESRD Quality Incentive Program (QIP) measure data for scoring and payment adjustment purposes in the PY 2022 program because of disruption from the COVID-19 pandemic. The proposed policies are intended to avoid penalizing facilities for measure results that could be distorted by CMS system errors or COVID-19. • CMS proposed to suppress measures for the PY 2022 ESRD QIP and to revise the scoring and payment methodology so that no facility receives a payment reduction in PY 2022.	**Finalized as proposed:** CMS finalized the proposal to adopt a measure suppression policy for the duration of the COVID-19 public health emergency. For Performance Year (PY) 2022, CMS will suppress the following ESRD QIP measures: • Standardized Hospitalization Ratio (SHR) clinical measure • Standardized Readmission Ration clinical measure • In-Center Hemodialysis Consumer Assessment of Healthcare Providers and Systems measure • Long-Term Catheter Rate clinical measure
	Reporting Extension: CMS announced an extension of the deadline for facilities to report September-December 2020 ESRD QIP data under the	**N/A:** The (extended) deadline to submit data was September 15, 2021.

Major Area	Proposed Rule	Final Rule
	Extraordinary Circumstances Exception policy, due to CMS operational issues.	
	Standardized Hospitalization Ratio: For the PY 2024 ESRD QIP, CMS proposed to update the specifications for the SHR clinical measure and to adopt CY 2019 as the baseline period for purposes of calculating the achievement thresholds, benchmarks and performance standard values. • Under the proposed rule, CMS would use the PY 2024 measure set for 2025.	**Finalized as proposed.**
ETC Model	***Home Dialysis Rate Calculation:*** CMS proposed adding nocturnal in-center dialysis to the calculation of the home dialysis rate for ESRD facilities not owned in whole or in part by a large dialysis organization (LDO), and for managing clinicians.	**Modified:** CMS modified the proposal to make the numerator of the home dialysis rate calculation for all ESRD facilities and for managing clinicians include one half of the total number of nocturnal in-center dialysis beneficiary years for attributed ESRD beneficiaries. CMS declined to finalize the proposed definition of an ETC LDO at this time.
	Transplant Rate Beneficiary Exclusion: CMS proposed to exclude beneficiaries with a diagnosis of, and who are receiving treatment with chemotherapy or radiation for, vital solid organ cancers from the calculation of the transplant rate.	**Modified:** CMS corrected information that was included in the proposed rule, clarifying the list of applicable diagnosis and treatment codes. CMS also added a six-month lookback period to identify radiation and chemotherapy treatment codes for beneficiaries who only have a vital solid organ cancer diagnosis code during the relevant MY.
	Beneficiary Attribution for Living Kidney Donor Transplants (LDT): CMS proposed to modify the methodology for attributing preemptive LDT beneficiaries to managing clinicians such that a preemptive LDT beneficiary would be attributed to the managing clinician who submitted the most claims for services furnished to the beneficiary during the 365 days prior to the transplant date (with additional rules for breaking a "tie").	**Finalized as proposed.**
	Performance Payment Adjustment (PPA) Achievement Benchmarking Methodology: CMS proposed to increase achievement benchmarks by 10% over rates observed in comparison geographic areas every two model years (MYs), beginning in MY3 (2022). CMS also proposed to stratify achievement benchmarks based on the proportion of attributed beneficiaries who are dually eligible for Medicare	**Finalized as proposed.**

Major Area	Proposed Rule	Final Rule
	and Medicaid or receive the low income subsidy (LIS) during the MY (in recognition of the fact that beneficiaries with lower socioeconomic status have lower rates of home dialysis and transplant than those with higher socioeconomic status).	
	PPA Improvement Benchmarking and Scoring: CMS proposed to introduce the health equity incentive to the improvement scoring methodology used in calculating the PPA to reward ETC participants that demonstrate significant improvement in the home dialysis rate or transplant rate among their attributed beneficiaries who are dual-eligible or LIS recipients. CMS also proposed to adjust the improvement scoring calculation to avoid a scenario where an ETC participant cannot receive an improvement score because its home dialysis rate or transplant rate was zero during the benchmark year.	**Modified:** CMS changed the threshold for earning the health equity incentive from a 5-percentage point increase to a 2.5-percentage point increase in the ETC participant's home dialysis rate and transplant rate, respectively, among attributed beneficiaries who are dual-eligible or LIS recipients from the benchmark year to the MY.
	PPA Reports and Related Data Sharing: CMS proposed a new process by which CMS will share certain model data with ETC participants.	**Modified:** CMS modified some of the required content of ETC data sharing agreement provisions for beneficiary-identifiable data.
	Medicare Waivers: CMS proposed an additional waiver to provide managing clinicians with additional flexibility in furnishing the kidney disease patient education services described in § 410.48 (specifically, waiver of certain telehealth requirements as necessary solely for purposes of allowing ETC participants to furnish kidney disease patient education services via telehealth).	**Modified:** CMS modified the date the waivers become effective, removing the phrase "Beginning January 1, 2022," as proposed, and adding "Beginning upon the expiration of the Public Health Emergency (PHE) for the COVID-19 pandemic."
	Kidney Disease Patient Education Services Coinsurance Waivers: CMS proposed to allow managing clinicians to reduce or waive the beneficiary coinsurance for kidney disease patient education services, subject to certain requirements.	**Modified:** CMS modified requirements for documentation retention and government access to records regarding the reduction or waiver of beneficiary cost-sharing obligations for kidney disease patient education services furnished under the ETC model.

For more information, contact Lauren Knizer, Mara McDermott and Kristin O'Brien.