

CMS Proposes Making Emergency IRF Policy Permanent

- *In its annual IRF payment rule, CMS seeks to make permanent a policy it adopted on a temporary basis in response to COVID-19.*
- *The change would do away with a mandatory post-admission physician evaluation.*
- *The agency also seeks to greatly increase IRF services that may be performed by non-physician practitioners.*

Today, the Centers for Medicare and Medicaid Services (CMS) released its **annual inpatient rehabilitation facility (IRF) payment rule** ([rule, fact sheet](#)). The notice of proposed rulemaking (NPRM) would cover the IRF prospective payment system (PPS) in fiscal year (FY) 2021. Notably, the rule seeks to **permanently codify a change advanced by CMS as part of its response to the COVID-19 crisis**. Like three other 2021 payment rules released last Friday, the IRF rule seeks to adopt the Office of Management and Budget's (OMB) revised statistical area delineations. The rule is open for comment through June 15, 2020.

- **Background.** CMS issues payment rules for each of its PPS on an annual basis. Payment rules update payment methodologies for each PPS, and the agency often packages major policy changes along with the updates. So far, CMS has issued 2021 proposed rules addressing skilled nursing facilities, inpatient psychiatric facilities, and hospice providers.

On April 6, CMS published an interim final [rule](#) in the *Federal Register* temporarily dispensing with the requirement for IRFs to provide and document a post-admission physician evaluation within 24 hours of admission. It also permitted physicians to conduct the three-times-weekly face-to-face visits required of IRFs via telehealth. In today's proposal, the agency seeks to **permanently remove the post-admission evaluation requirement** beginning in FY 2021, though it notes that the proposal would not preclude such an evaluation if the IRF thought it necessary. CMS also seeks to **permit non-physician practitioners to perform any of the duties that would be performed by a rehabilitation physician** to the extent permitted under state law and their scope of practice.

With regard to the post-admission evaluation requirement, CMS states that the rescinding of the requirement during the COVID-19 emergency "will provide us with experience to determine whether this requirement can be removed permanently." As the administration eyes the **emergency period as something of a trial run for policies implemented on an emergency basis**, stakeholders may be looking to see what other policies — such as expanded telehealth coverage in Medicare — the administration may seek to retain when the emergency is over.

The proposed rule also includes updates to adopt OMB's revised statistical area delineations. These revisions update delineations for metropolitan statistical areas, micropolitan statistical

areas, and combined statistical areas, resulting in changes to wage indices. CMS proposes a **five percent cap in any wage index reductions resulting from re-designations** in the first year of the adoption of the new delineations to ease the transition process.