Final Regulations for a New Payment System for the Medicare ESRD Program Are Released

This year, while Congress was working to pass health care reform legislation, the Centers for Medicare and Medicaid Services (CMS) worked to implement the provisions within the Medicare Improvements for Patients and Providers Act (MIPPA) for the end stage renal disease (ESRD) program. On July 26 CMS released the final regulations for a new Prospective Payment System (PPS) and proposed regulations for a Quality Incentive Program (QIP) for the ESRD program.

The following provides an overview of these two important regulatory documents and an update on recent actions by the House and Senate Appropriations Committees on nursing workforce and biomedical research funding.

Overview of the Final ESRD Bundled Payment System Regulations

This highly anticipated final rule makes significant changes to the proposal CMS had originally published on September 15, 2009. The following provides background on several key issues to ANNA and the kidney community, as well as information on certain changes or adjustments to the regulations between the proposed and final rule. Both ANNA and Kidney Care Partners (KCP) sent letters to CMS in December 2009 outlining issues of concern with the proposed rule. A copy of these letters can be found on the ANNA Web site at www.annanurse.org (click on the Health Policy tab and select Activities/Endorsements).

Oral Drugs

In its proposed rule, CMS included oral drugs in bundled Medicare payments to dialysis facilities. CMS also imposed a 20% coinsurance for Medicare beneficiaries for all items and services included in the bundle. Therefore, under the proposed policy many Medicare beneficiaries would not be able to afford treatment plans that include oral drugs. Additionally, CMS proposed to reimburse dialysis facilities at a rate of $14 for providing oral drugs; however, ANNA was concerned that the Agency did not use a comprehensive data set to calculate the cost of these drugs.

In the final rule, CMS opted to delay enforcing this proposal until January 2014. Although CMS maintains that it has the authority to include oral drugs in the payment bundle in the future, CMS agreed that pricing and utilization data used to formulate the initial proposal were insufficient. They plan to conduct a careful assessment of available pricing data before implementing the new policy.

Transition Adjustment

In addition to imposing a 2% overall pay cut on dialysis facilities, CMS proposed enforcing an additional 3% cut to those facilities that choose to make the transition to the bundled payment over a 4-year period as opposed to wholly moving to the new bundled payment system at once. CMS plans to monitor this policy and make adjustments during the years of the transition to reflect new information gathered.

Laboratory Tests

As mentioned previously, under the new bundled payment system, CMS will require dialysis patients to pay a 20% coinsurance for services received in a dialysis facility. Under the proposed rule, this 20% coinsurance payment would include all laboratory tests ordered by a physician in treating an ESRD patient. ANNA commented on the proposal, saying that CMS should include in the bundle only those laboratory tests furnished for the treatment of ESRD, rather than all tests conducted in the facility.

CMS has created a list of 53 ESRD-related laboratory services that will be subject to the 20% coinsurance payment. However, the facility will still be required to report all laboratory tests on their claims. CMS will provide a modifier to identify laboratory tests that are not related to ESRD, allowing ESRD facilities to receive separate payments for them.

Case-Mix Adjustors

CMS proposed to use case mix adjustors to ensure that dialysis facilities are appropriately reimbursed for services provided to patients whose treatment costs are likely to exceed composite rate costs. Age, body mass index, body surface area, and sex case-mix adjustors were included in the original proposal. Although ANNA was concerned with the administrative burden collection of this information will impose, there was also concern that the facilities receive the appropriate reimbursement for the services. Therefore, ANNA endorsed the adoption of a race adjustor in the final rule. Age, body mass index, body surface area, and sex case-mix adjustors were included in the final rule. Race was not included as a case-mix adjustor.

Quality Incentive Program (QIP) Proposed Rule

On the same day that the final rule on the ESRD bundled payments was issued, CMS released the Quality Incentive Program (QIP) Proposed Rule. In this proposal, CMS identified three quality measures...
and an accompanying methodology for data collection, reporting requirements, and incentives for desired quality outcomes. The three quality measures identified by CMS include the following:

- Percentage of Medicare patients with an average hemoglobin <10.0g/dL;
- Percentage of Medicare patients with an average hemoglobin >12.0g/dL; and
- Percentage of Medicare patients with an average Urea Reduction Ratio (URR) ≥ 65%.

Facilities will be evaluated on these measures against the national performance rate. CMS has proposed assigning 10 points to each of the measures, subtracting 2 points from a score for every 1 percentage point the facility’s performance falls below the national performance rate standard. The payment reductions would apply to the facility’s monthly payment amount and the facility’s performance will be made public. ANNA plans to comment on the proposed rule and is working with expert volunteers and other organizations in the kidney community to analyze the proposed rule and provide CMS with formal comments.

**Appropriations Funding for Nursing Workforce and Biomedical Research**

Each year ANNA advocates for increased funding to support nursing workforce development programs, kidney disease and nursing research, and health care quality improvements. This year ANNA joined the nursing community’s request of $267.3 million for Nursing Workforce Development Programs at the Health Resources and Services Administration (HRSA) for fiscal year (FY) 2011. ANNA also urged Congress to provide $160 million for the National Institute of Nursing Research (NINR) and the maximum funding for the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

The House Labor, Health and Human Services, Education, and Related Agencies (LHHS) Subcommittee published an overview of its appropriations proposal, which includes $292 million for nursing workforce programs. This represents a 20% increase over the previous year’s funding levels. The Senate Appropriations Committee spending bill included a total of $292.3 million for nursing workforce programs, $150 million for NINR, and $1.9 billion for NIDDK.

While Congress prepares for the upcoming November elections, these funding bills are likely to receive very little attention or action. It is anticipated that Congress will delay action on appropriations-related issues until late November or early December in a “lame-duck” session. However, we encourage you to keep contacting your legislators about ANNA’s funding requests. For more information on ANNA’s appropriations priorities, go to the ANNA Web site at www.annanurse.org/download/reference/health/fundingChart.pdf.

**Stay Informed and Involved**

The implementation of a new ESRD bundled payment system and the creation of a quality incentive program promise to make the upcoming months very exciting and challenging for nephrology nurses. We encourage you to stay informed and involved in ANNA’s advocacy efforts on these issues. The Health Policy section of the ANNA Web site ([www.annanurse.org](http://www.annanurse.org)) is an excellent resource for new information on these important issues.

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**Tell ANNA about Your KDAE Event**

Congratulations to everyone who helped make this year’s Kidney Disease Awareness and Education Week (August 9-13) a success! Reports keep rolling in about the visits, proclamations, and other observations of Kidney Disease Awareness and Education (KDAE) Week. What a wonderful opportunity to educate our policymakers!

**KDAE Week Evaluation Form**

If you haven’t already reported on your KDAE event, please take this opportunity to let ANNA know about your efforts by completing the online KDAE Week Evaluation Form. This form can be found on the KDAE Week page on the ANNA Web site (go to [www.annanurse.org](http://www.annanurse.org), click on the Health Policy tab, and select KDAE Week). ANNA Federal Health Policy Associates will follow up with Congressional offices with any additional information to reinforce the message you delivered.

Remember, even if you hosted an event at your facility through your dialysis organization, it can still be logged and used to accrue points for ANNA’s Regional Health Policy Award and the Chapter STAR Awards.

Did KDAE Week pass by without you hosting or planning an event? No worries! ANNA strongly supports hosting visits and making contact with policymakers at all levels (federal, state, and local) throughout the year. Use the KDAE planning and orientation materials available on the ANNA Web site to assist you in planning and hosting an event.

If you have questions or comments, please email kdae@annanurse.org. We appreciate the wonderful questions we have received as well the opportunity to help make your event a reality.

Thank you to all who participated in this important educational endeavor!

Gayle Hall
2010 KDAE Week Advisor