

THE IMPACT ACT OF 2014 PUTS PROVIDERS ON A PATH TO MEDICARE POST-ACUTE CARE PAYMENT REFORM

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On October 6, 2014, President Obama signed into law the Improving Medicare Post-Acute Care Transformation Act of 2014 ("IMPACT") (H.R. 4994). Both the United States House of Representatives and the United States Senate passed the IMPACT bill without debate or individual member vote.

IMPACT is a post-acute care (PAC) reform bill that applies to four types of PAC providers—long-term acute care hospitals (LTCHs), inpatient rehabilitation facilities (IRFs), skilled nursing facilities (SNFs) and home health agencies (HHAs). IMPACT also includes separate provisions on hospice programs. LTCHs, IRFs, SNFs and HHAs will be required to report to CMS standardized patient assessment data, data on quality measures and data on resource use and other measures. *Any PAC provider that fails to report required data to CMS will see its Medicare payments reduced by two percent in the next year.* The scope of IMPACT is limited by definition to traditional Medicare beneficiaries (Part A or Part B). Medicare Advantage (Part C) patients are not included.

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IMPACT directs the Secretary of Health and Human Services (who will delegate such responsibility to the Centers for Medicare & Medicaid Services (CMS)) to modify the current PAC patient assessment instruments for the submission of standardized patient assessment data in a way that can be compared across PAC settings. CMS must study the effect of individuals' socioeconomic status on quality, resource use, and other measures for individuals under the Medicare program, as well as the impact of specified risk factors on these measures. In addition, CMS must provide confidential feedback reports to PAC providers on their performance with respect to all quality measures and resource use measures under the applicable reporting provisions. CMS will make this performance data available to the public.

Reported data will be interoperable to allow for evaluation across PAC settings and sharing among PAC and other providers to facilitate coordinated care and improved outcomes. CMS and MedPAC will use the reported data, and other data sources, to compare outcomes across PAC settings and develop recommended payment reforms. CMS also will issue new regulations to modify conditions of participation so that PAC providers take into account quality, resource use and other measures, as well as patient preferences and goals of care, in the discharge planning process.

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In less than two years, MedPAC will submit a report to Congress using “off the shelf” data from the Post-Acute Care Payment Reform Demonstration (PAC-PRD) with an initial evaluation and recommendations for the features of PAC payment systems, or a unified PAC payment system, that sets payment rates according to individual characteristics instead of treatment setting. This report must address the impact of moving from current PAC payment systems to any proposed PAC payment system(s).

CMS and MedPAC are required to submit separate reports to Congress no later than the 2021 to 2023 timeframe with recommendations for a unified PAC payment system and a “technical prototype” for a PAC prospective payment system that establishes payment rates according to individual characteristics instead of treatment setting; *however, nothing in the legislation prevents CMS or MedPAC from submitting these reports to Congress sooner.* This means that CMS and MedPAC could recommend, and Congress could approve, a new PAC payment system well before 2021 to 2023. The information released by the congressional committees about the IMPACT bill did not explain this critical detail, all of the new payment penalties, and other material aspects of the new law.

Post-acute care providers should understand the risks and opportunities that IMPACT presents. We have developed a detailed analysis of the IMPACT Act of 2014 based upon a line-by-line review of the bill in connection with all of the referenced authorities. Our analysis also provides the legislative history, policy background and context, and chronological listing of all implementation dates. Please contact us at (202) 706-7926 or jhealy@healylawdc.com if you are interested in our analysis of IMPACT.

About Us

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The Law Offices of Jason M. Healy PLLC is a Washington, D.C. based law firm serving national and local clients. We focus primarily on legal issues affecting health care providers and welfare benefit plans. We help health care providers and their trade associations understand Medicare and Medicaid laws and regulations, and address compliance matters. We also represent health care providers in reimbursement audits, appeals, litigation, and transactions. We help sponsors of welfare benefit plans understand and comply with federal and state laws and prepare plan documents. Located in Washington, DC, just minutes from the Department of Health and Human Services, Congressional offices, and the White House, we are well positioned to provide legal support for advocacy efforts. Our Principal, Jason M. Healy, is a health care lawyer with over 15 years of experience with the array of legal issues facing health care providers.

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