

CMS Finalizes Medicare Advantage Rates for 2021 in Preparation for Influx of ESRD-eligible Medicare Patients

On April 6, 2020, CMS published the final rates for Medicare Advantage (MA) plans for 2021. The ESRD rate (for those ESRD eligible MA plan enrollees who are on dialysis) will increase by approximately 4% over current rates, and the MA rate for age-disabled Medicare enrollees (which also serves as the basis for determining the rates for post-transplant ESRD-eligible enrollees) will increase by approximately 1.66%. Both increases are higher than those included in the proposed rate notice issued earlier this year.

ASTS had submitted comments on the proposed rates, as well as on a related proposed rule. In its comments, ASTS recommended that CMS:

- Expand the availability of transplant bonuses to MA plans.
- Impose network adequacy requirements for Transplant Centers.
- Modify MA plan payment for transplant costs to reflect costs of the transplant center involved.
- Monitor the impact of the payment differential between the age-disabled and ESRD rates on transplant access.
- Provide direct payment to providers for Organ Acquisition Costs (OAC)
- Modify FFS policies to include MA transplants in determining OAC.

A number of these issues are not related to MA plan payment rates, but to policy issues that (hopefully) will be addressed in a second notice to be issued by CMS.

However, the April 6 rate notice does address ASTS' request for a modification of the "transplant factor" used to pay MA plans for the costs of transplants provided to MA enrollees. ASTS noted in its comments that transplant costs vary significantly among transplant centers and requested that the transplant factor be based at least in part on the historical kidney transplant costs of the transplant center involved. CMS rejected this recommendation, indicating that transplant factors are national risk factors. CMS further notes:

To account for geographic cost differences, we multiply these factors by the dialysis state rates in payment.

Unfortunately, CMS' response reinforces the concern that the transplant factor may not provide adequate payment for transplant costs, since the costs of individual transplant centers are unrelated to geographic differences in "dialysis state rates in payment."

Please note, too, that because OAC are currently included in the MA plan rates, the contracts that MA plans have negotiated with transplant centers generally include payment for OAC. Beginning in 2021, however, the MA rates will exclude OACs: In fact, CMS is reducing MA plan rates significantly (by about \$4 per member per month) to account for the exclusion of OAC from the MA plan rates. For this reason, it is likely that MA plans will seek to renegotiate their agreements with Transplant Centers to exclude OAC and may seek substantial price concessions from Transplant Centers as the result of this change.