



Tips for Submitting Comments on FY 2025 SNF PPS Proposed Rule (CMS-1802-P)

The Fiscal Year (FY) 2025 Skilled Nursing Facility (SNF) Prospective Payment System (PPS) proposed rule was published on April 3 and outlines payment updates for FY 2025, policy changes to the SNF Quality Reporting Program (QRP) and Value-Based Purchasing (VBP) program and expanded enforcement authority related to civil money penalties (CMPs). LeadingAge will be submitting comments on the proposed rule and we encourage members to do so as well. We have compiled the following tips and links to help.

HOW TO WRITE YOUR COMMENTS

- Begin by introducing yourself and telling why this rule matters to you. You might tell a little about the organization for which you work, the residents you serve, or the job you do. Just remember to get appropriate permissions before sharing any identifying information.
- Don't feel obligated to comment on every aspect of the rule. Choose what matters most to you, whether that is one issue or four issues. Identify the issue, tell why you support or oppose it, and offer an alternative to issues you oppose. Explain how your alternative will help meet the same objective more effectively.
- Hit the sweet spot of concise and constructive. Provide enough information to make your point. Remember, you are shaping policy, not simply casting a vote.

HOW TO SUBMIT YOUR COMMENTS

Comments must be received by CMS by **5 p.m. ET on Tuesday, May 28**. Remember to reference file code CMS-1802-P in your comments. Comments can be submitted one of three ways:

Electronically: Comments can be submitted electronically via the Federal Register. Access the rule [here](#), then click on "Submit a Formal Comment" near the top of the page. You may type your comments directly into the text box, or you may attach a file containing your comments.

By regular mail: Comments may be submitted by mail and must be received before the close of the comment period. Mail written comments to:

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-1802-P
P.O. Box 8016

Baltimore, MD 21244-8016

By express or overnight mail: Comments may be submitted by express or overnight mail to:

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-1802-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

ADDITIONAL POINTS OF THE RULE

CMS proposes a 4.1% payment update for FY 2025. This update is based on a 2.8% market basket, a 1.7% forecast error adjustment, and less than a 0.4% productivity adjustment. CMS proposes to rebase the SNF market basket to a 2022 base year. Last updated in FY 2023, the market basket is typically rebased every four years or so; however, CMS felt that increased costs resulting from the COVID-19 public health emergency (PHE) warranted rebasing after only two years.

CMS also proposes to revise the wage index to reflect data collected on the most recent decennial census (the 2020 census). This data resulted in the revision of Core Based Statistical Area (CBSA) delineations, meaning that some CBSAs were redesignated from urban to rural or rural to urban, while other CBSAs may have been split to form new CBSAs or counties were shifted from one CBSA to another, all resulting in the potential for change to the wage index for nursing homes in affected CBSAs.

CMS has issued a Request for Information (RFI) related to the non-therapy ancillary (NTA) component of the Patient-Driven Payment Model (PDPM). The original NTA component was based on a study of residents from 2014-2018. CMS requests feedback on updating the NTA based on SNF stays with admissions from FY 2019-2022. Recognizing this time period reflects a portion of the COVID-19 PHE, CMS suggests utilizing the population subset that was finalized for the PDPM parity adjustment, which excludes SNF stays with a COVID-19 diagnosis or PHE-related billing code modifier. CMS would also utilize data from Medicare Part A stays only, rather than including the outside data sources that were necessary before the implementation of PDPM.

CMS proposes updates to the SNF QRP to include the addition of four new standardized patient assessment data elements (SPADEs) to the Minimum Data Set (MDS), the modification of one existing SPADE, and the adoption of data validation processes for claims-based and assessment-based measures. Claims-based measures would be subject to the data validation processes currently utilized by the Medicare Administrative Contractors (MACs) for validating Medicare claims. Assessment-based measures would be subject to the validation process finalized in the

FY 2024 SNF PPS rule for the SNF VBP program that requires providers to submit medical records to CMS-appointed contractors for validation.

CMS proposes updates to SNF VBP to include the adoption of four new program policies: Measure Selection, Retention, and Removal; Technical Measure Updates; Measure Minimums; and the Extraordinary Circumstances Exception policies. The proposed policies are all in line with policies previously approved for this or other CMS programs. CMS further proposes to expand the application of the existing review and correct process to all measures within the program.

Lastly, CMS proposes to expand authority related to the enforcement of CMPs. CMS proposes to allow for the enforcement of both per day and per instance CMPs in the same survey and/or for the same citation, enforcement of multiple per instance CMPs for the same or similar noncompliance within the same survey, and to expand the look-back period for CMPs from “the last standard survey” to the last three standard surveys.

POINTS TO CONSIDER FOR COMMENTING

Commenters may wish to focus on four main areas when commenting:

- Payment update
- Wage index update
- Non-therapy ancillary RFI
- Expansion of CMP authority

Payment Update: The proposed 4.1% payment update is consistent with previous years, but expenses continue to increase through new regulatory provisions such as the recently incorporated enhanced barrier precautions and the recently finalized staffing standards.

Wage Index Update: While an updated wage index would generally be a more accurate reflection of labor costs, the delineation of Core-Based Statistical Areas (CBSAs) based on 2020 Census data means that SNFs could be designated to a different CBSA than under the previous wage index. This could lead to a change in a SNF’s wage index if, for example, the SNF is shifted from an urban CBSA to a rural CBSA.

Non-Therapy Ancillary RFI: Adjustment of the non-therapy ancillary component of PDPM will directly impact nursing home payment through PDPM. This adjustment may be warranted, and nursing homes should consider providing feedback to help ensure future proposed revisions reflect a more accurate reimbursement structure.

Expansion of CMP Authority: The expanded authority proposed in this rule would likely increase both the total number of CMPs and the total dollar amounts of enforced CMPs. Nursing homes would likely receive multiple CMPs for noncompliance that would have resulted in only a single CMP in the past. While the authority to enforce a per day CMP from the start date of the survey for ongoing noncompliance, rather than the first date of noncompliance,

could result in a lower per day CMP dollar amount, it is likely that this decreased per day CMP would be offset by per instance CMPs that reflect previous episodes of noncompliance related to the ongoing noncompliance. Additionally, the expansion of the look-back period for CMPs means that CMPs could be enforced for noncompliance that surveyors neglected to identify on any of the last three standard surveys.

RESOURCES TO ASSIST YOUR COMMENT WRITING

- Find the proposed rule [here](#). CMS has provided a Fact Sheet on the rule [here](#).
- Read the LeadingAge overview of the rule [here](#).
- For more tips on writing comments, check out this resource: [Tips for Submitting Effective Comments](#)