



American Hospital
Association

Protect Access to Inpatient Rehabilitation for Seniors

THE 75% RULE

The phase-in of the 75% Rule continues to place great stress on inpatient rehabilitation facilities (IRF) and restrict their ability to treat patients who need advanced medical rehabilitation. The phase-in, which began in July 2004, is in its second year with a threshold of 60 percent. The recently enacted Deficit Reduction Act extends the 60 percent threshold an additional year through June 2007. While this extension helps many Medicare beneficiaries who need intensive medical rehabilitation, thousands of patients continue to be denied access.

A December 2005 report by The Moran Company found that approximately 40,000 fewer Medicare beneficiaries were treated in IRFs during the first year of the phase-in. The study also projects that an additional 64,000 patients would not be treated in IRFs during the second year of the phase-in. The shocking scale of these cuts – approximately 100,000 during the first two years of the phase-in – far exceeds the Centers for Medicare & Medicaid Services' (CMS) initial projection that just 7,000 patients would be turned away by the revamped 75% Rule. **Clearly, CMS has gone too far with 100,000 patients turned away by IRFs in a two-year period.**

By extending the 60 percent threshold, Congress expressed its ongoing concerns about the 75% Rule. This extension provides some protection for patient access to care while encouraging CMS, the IRF field, and other parties to conduct research on effective and efficient treatments for post-acute rehabilitation patients. In fact, a national study currently underway by the National Rehabilitation Hospital and the Institute for Clinical Outcomes Research should shed light on appropriate protocols and settings for joint replacement patients. Preliminary results from this study are expected in early 2007. Additional research efforts are essential, as noted in April 2005 by the Government Accountability Office and in May 2005 by the National Institutes of Health. The AHA and other national groups have developed a research plan to complement current studies and provide a roadmap for the IRF field. **Holding the 75% rule at the current level while this research is pursued is extremely important.**

BUDGET FOR FY 2007

The Administration's budget proposal includes a freeze in the IRF payment update for fiscal year (FY) 2007 and an update of market basket minus 0.4 percent in FY 2008 and FY 2009, which would reduce payments by \$1.6 billion over five years. It also would reduce IRF payments for joint replacement patients by \$2.4 billion over five years. These arbitrary and excessive cuts would heighten volatility within the IRF field and further threaten access to care. The proposed payment cut for joint replacement patients has been inappropriately described as a site-neutral payment adjustment; however, CMS has failed to provide evidence that treating these cases in a less-intensive setting is clinically appropriate for all joint replacement patients or that it actually costs less than IRF care in the long-run. Given the magnitude of reduced IRF access due to the 75% Rule, it is inappropriate to further penalize joint replacement patients through a severe payment cut. **Instead, CMS should support the completion of rehabilitation research studies, which will provide a scientific basis to target patients who need inpatient medical rehabilitation.**

WHAT PATIENTS AND INPATIENT REHABILITATION FACILITIES NEED

- Congress should continue to hold the 75% Rule at the 60 percent level until research studies are completed and CMS and the IRF field can collaborate on improving the rule to ensure patients in IRFs are medically appropriate for advanced medical rehabilitation.
- IRFs should receive the full market-basket update, which is intended to cover the cost of inflation from year to year. Compensating IRFs for this real cost helps ensure that providers are able to deliver care safely.
- CMS should assess and compare the cost effectiveness of caring for joint replacement patients in IRFs and in less intensive settings rather than proposing arbitrary and excessive cuts to joint replacement patients without an evidence-based rationale.
- Now is not the time for further punitive policy changes for IRFs. Now is the time to research and study inpatient rehabilitation care and other post-acute settings providing rehabilitation. Major research projects are underway and more are in the pipeline. We need time and stability to complete this research so that future policy changes are based on evidence and scientific study.