



Congress Must Protect Access to Quality Inpatient Rehabilitation

75 PERCENT RULE

The phase-in of the 75% Rule continues to put stress on inpatient rehabilitation facilities (IRFs). To comply with the 75% Rule, hospitals must often deny access to many Medicare and private patients, which restricts their ability to treat patients who need medical rehabilitation. Congress acknowledged the significance of this problem in the Deficit Reduction Act of 2005 (DRA) by extending the 60 percent threshold for an additional year. Although the DRA has preserved access for many patients, 88,000 patients have lost IRF access¹, and there has still been no action to address the substantive problems with the 75% Rule.

Unless Congress acts, the compliance threshold will jump to 65% effective for cost reporting periods beginning on or after July 1, 2007. Congress should hold the 75% Rule at the current 60% level so patients continue to have access to quality inpatient rehabilitation care while research on medical rehabilitation in IRFs and other post-acute settings is completed. In addition, Congress should encourage CMS to work with the IRF field to refine this outdated rule.

- ✓ ***We support legislative language to preserve patient access by holding the 75% Rule at the current 60% level while research is conducted. The 75% Rule must be modernized to distinguish IRFs from acute care hospitals.***

MEDICAL NECESSITY DENIALS BASED ON LCDS

The national organizations agree that IRFs cannot continue to provide quality, medically necessary care to Medicare beneficiaries while they face unpredictable denials based on local coverage determinations (LCDs). The field is reeling from excessive medical necessity reviews by CMS-contracted fiscal intermediaries (FI), resulting in lost and/or delayed reimbursement, expensive appeals processes, and, in some cases, wholesale denials are wreaking havoc on access to care. CMS should work with the IRF field to establish appropriate and consistent medical necessity policies for FIs and providers based on the results of research currently underway.

- ✓ ***We support Congressional intervention to suspend LCD-based medical necessity reviews that contradict fair and objective implementations of existing coverage standards under the Medicare Benefit Policy Manual.***

FY 2007 MEDICARE CUTS

The 75% Rule and local coverage determinations continue to create volatility that threatens access to care. Given these stresses, the IRF field cannot absorb additional cuts such as CMS' 2.6% coding reduction for 2007. This cut will heighten volatility, which further threatens access to care as IRF beds, units, and hospitals close in response to these policies.

¹ Based on analysis by The Moran Company (September 2006) of IRF claims data from July 2004 through June 2006.