

# Eliminate Potential Double-Hit on Medicare Funding for Home Care Services

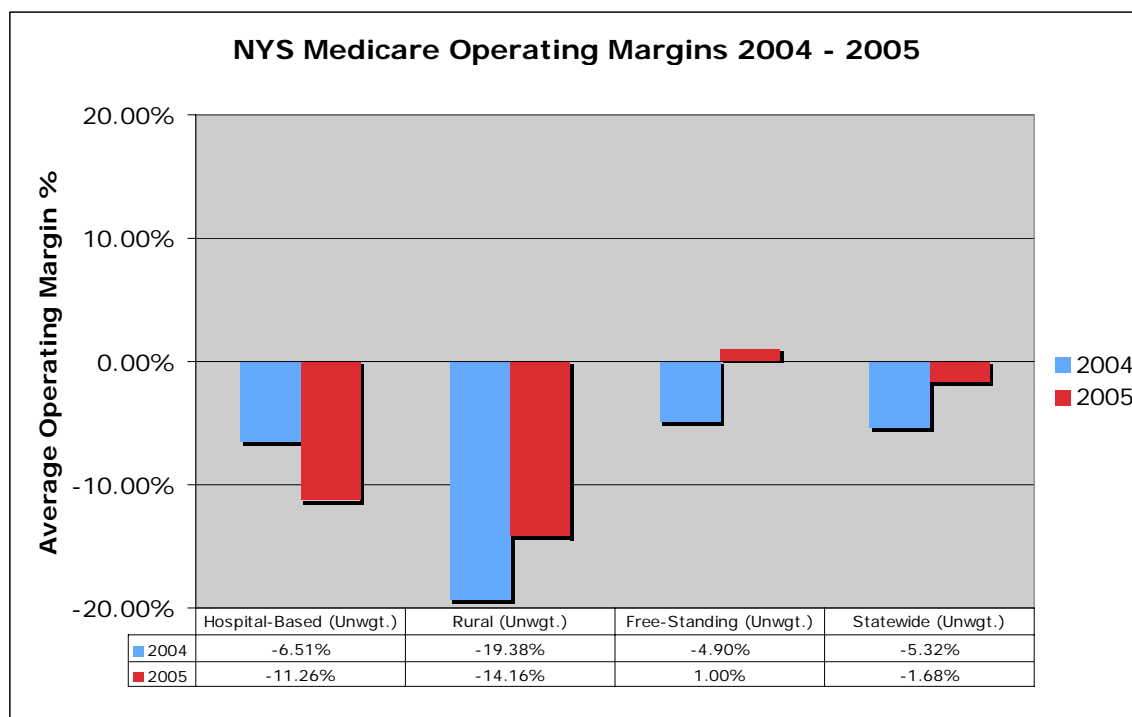


It is essential that the Medicare home health market basket inflationary update be provided and that Congress reverse a recently implemented CMS rule reducing provider rates through an arbitrary case mix adjustment.

## Financial Condition of New York State's Home health agencies:

Home health agencies (HHAs) in New York State have experienced cuts in their Medicare payments of \$198 million from 1997-2006. This has had debilitating effects on New York State's home care infrastructure and has contributed to the financial fragility of our home care provider community. In fact, the Medicare operating margin for New York HHAs remains negative for the fifth year in a row at -1.68% (unweighted 2005 data that includes hospital-based agencies).

While a March 2008 report by the Medicare Payment Advisory Commission (MedPAC) contends that the projected 2008 Medicare operating margin for HHAs nationally is 11.4%, MedPAC's analysis does not include institution-based providers and is not an accurate representation of the financial health of HHAs in New York State. In fact, home health Medicare margins in New York vary significantly from the MedPAC analysis.



Source – National Association for Home Care and Hospice (NAHC) Medicare Cost Report database

In New York State, HHAs in 4 out of the 8 regions of the state are experiencing negative operating margins, while the total statewide operating margin for home health providers was less than 2% in 2004 (NYS Department of Health-latest data available). Continued reductions in Medicare payments for home care services will only serve to deny HHAs the necessary payments to cover the costs of providing care to Medicare patients and result in a further weakening of New York State's home care infrastructure.

## Issue – Full Medicare Market Basket Update for Home Care:

Over the past year, there have been numerous proposals to eliminate the Medicare home health care market basket update.

These include the Bush Administration's fiscal year 2009 Budget proposal of a 5-year freeze (2009 – 2013) on the Medicare home health market basket inflation update followed by a permanent reduction of the market basket update by 0.65 percent annually thereafter. The 2009 freeze would be the second payment freeze in a four year period, since the Deficit Reduction Act (DRA) of 2005 also eliminated the full home health market basket update (3.6%) in 2006.

A continued freeze of the market basket inflationary update contributes to the growing gap between payment and reimbursement for agencies serving Medicare patients.

This payment gap, which is exacerbated every year that the home health market basket adjustment is withheld, compromises agency operations and their ability to deliver necessary care. Given the rising costs of fuel, medical supplies, personnel, insurance, corporate compliance and other general operating costs, the market basket inflationary update is necessary to ensure that agencies have the resources to meet patients' needs.

- **Recommendation:** HCA and home health providers urge Congress reject any efforts to reduce the home health market basket adjustment and **support a full market basket update for Medicare home health services in 2009.**

## Issue - Repeal Case Mix Creep CMS Medicare Cut:

In January 2008, CMS implemented a regulatory provision that will reduce Medicare episodic payments by 11.75% from 2008 to 2011 (an arbitrary cut attributed to "case-mix creep"). This will reduce payments to New York home health agencies by \$80 million and further contribute to the financial instability of New York State's home care infrastructure.

CMS' case-mix creep provision is based on the assertion that home health agencies have intentionally gamed the system by coding their patients at a higher clinical severity in order to receive higher Medicare payments under the newly implemented Prospective Payment System (PPS).

The data CMS used, and its assumptions based on this data related to inflated coding, are flawed:

- Actual changes in the home health population and improvements in the accuracy of OASIS coding are critical explanatory factors not considered by CMS.
- Additionally, according to data by Outcome Concept Systems (OCS), the largest provider of data and benchmarking services to home health agencies nationwide, the average 2005 adjusted case-mix weight (on final claims) both nationally and in New York was less than the case-mix weight derived by CMS. The OCS data is based on either the provider or regional home health intermediary's adjustment in final claims upon submission. We believe that if CMS reexamined the most recent adjusted case-mix weight data in providers' final claims, their measurement of the case-mix increase would be accurate.

A range of factors explain why the average case-mix weight for a home health agency has increased from the inception of PPS:

- CMS has failed to consider therapy utilization and other changes in patients' conditions and functional status as indicators of increased clinical severity.
- Patients receiving home care today are sicker, more functionally impaired, and require more medically-intensive services than at the onset of Home Health PPS. The increase in patients' clinical needs is largely due to an inpatient hospital payment system that has created incentives for early discharge of patients who require more care. CMS itself recognized the "quicker and sicker" phenomenon and the resulting higher case mix cases in home health care and penalized hospitals that had been systematically discharging patients to home health agencies much earlier than the norms of the DRG system.
- Advances in medical technology have allowed patients who could previously be served only in hospitals or nursing homes to receive comparable care at home; the result is a home health population with higher acuity and more intense resource needs.

The CMS reduction in case-mix therefore represents an arbitrary cut to home care that, in conjunction with the proposed Medicare market basket reduction, represents a double-hit to home care that will jeopardize a financially fragile home care infrastructure in New York State.

► **Recommendation:** HCA urges Members of the New York Congressional Delegation to support S. 2181/H.R. 3865 – the Medicare Home Health Access Protection Act, which was introduced by Senator Collins (R-ME) and Senator Casey (D-PA) in the Senate and by Rep. McGovern (D-MA) and Rep. Jones (R-NC) in the House. This legislation would:

- Establish a reliable and transparent process for determining whether the payment rate cuts are needed to account for improper changes in "case-mix scoring" that are not related to changes in the nature of the patients served in home health care or the nature of the care they received. This process still enables the Secretary of Health and Human Services to enact rate adjustments provided there is reliable evidence that there are higher case mix scores resulting from factors other than changes in patient conditions, or an improper increase in overall home health expenditures as a result of such factors.
- Prevent the implementation of the 11.75% payment cuts for Medicare home health services that are included in the CMS Final Rule if the Secretary is unable to justify such payment cuts through the process set forth above.

**New York Cosponsors of S. 2181/H.R. 3865: Senators Clinton and Schumer, Representatives Kuhl, McNulty, Slaughter, Towns, Reynolds.**