

we would not pay separately for the pass-through items, we agree with the commenter that we should consider taking these costs into account when evaluating how best to establish the payment rate for APC 375 in future updates of the OPPS. We also agree that charges reported with a revenue code but without a HCPCS code should be considered as well.

E. Partial Hospitalization Payment Methodology

1. Background

As we discussed in the April 7, 2000 OPPS final rule (65 FR 18452), partial hospitalization is an intensive outpatient program of psychiatric services provided to patients in place of inpatient psychiatric care. A partial hospitalization program (PHP) may be provided by a hospital to its outpatients or by a Medicare-certified community mental health center (CMHC). Payment to providers under the OPPS for PHPs represents the provider's overhead costs associated with the program. Because a day of care is the unit that defines the structure and scheduling of partial hospitalization services, we established a per diem payment methodology for the PHP APC, effective for services furnished on or after August 1, 2000.

The analysis of hospital partial hospitalization claims resulted in a per diem payment of \$202.19, effective August 1, 2000. This amount was updated effective January 1, 2001 and April 1, 2002 to \$206.82 and \$212.27, respectively.

Effective January 1, 2003, the PHP APC amount was \$240.03, of which \$48.17 is the beneficiary's coinsurance. In the proposed rule, we described the methodology we followed in developing the 2003 PHP payment rate.

2. PHP APC Update for CY 2004

For CY 2004, we analyzed hospital and CMHC PHP claims for services furnished between April 1, 2002 and December 31, 2002. We intended to propose to use the same methodology for computing median costs per day for CY 2004 that was used to compute the CY 2003 PHP median cost per day. However, when we applied the methodology to the CMHC claims, the CMHC median cost per day was determined to be significantly higher than the median cost per day for hospital outpatient departments to provide the same benefit. In addition, the difference in median costs per day was significantly larger than last year.

As a result, we proposed a per diem rate for PHP services furnished during CY 2004 based solely on hospital PHP

data. The proposed PHP APC 0033 amount, after scaling, was determined to be \$208.95, of which \$41.69 is the beneficiary's coinsurance.

However, a Program Memorandum issued on January 17, 2003, directed the FIs to recalculate hospital and CMHC cost-to-charge ratios. We anticipated receipt of the updated ratios this summer, and indicated that if the updated cost-to-charge ratios resulted in a more reasonable median per diem rate, we would use the CMHC data in developing the final rate for CY 2004.

We received 42 public comments in response to this proposal. A summary of the comments is provided below along with our responses.

Comment: In general, the commenters expressed concern that a reduction in the PHP rate of this magnitude would lead to the closure of many PHPs and that limited access to this crucial service would result in more costly inpatient hospital care as the only alternative. A hospital association commented that basing the rate on only hospital data is inconsistent with other prospective payment systems and recommended that we find an alternative method to secure reliable CMHC data. CMHCs commented that their costs are higher than hospitals', with most in the \$300 to \$400 range. One commenter provided summary information on the average per day costs for seven CMHCs. Although the average per day cost for these seven providers was \$390, the costs for individual providers ranged from \$216 to \$725. Unfortunately, the commenter did not provide a breakdown of these costs. Another commenter indicated that a per day rate of \$300 to \$350 was more appropriate than our proposed amount.

Another commenter stated that our inability to process the data timely does not constitute an appropriate basis for excluding all CMHC data from the per diem calculations. The commenters suggested alternatives such as including prior years' CMHC data trended forward based on medical inflation or maintaining the CY 2003 payment rate for PHP services furnished in CY 2004. One commenter questioned why the median cost per day for hospitals was reported as \$225 but the proposed rate was reduced to \$208.95.

Response: As we stated in the August 12, 2003 proposed rule, we intended to review the PHP data using the updated cost-to-charge ratios to compute the final CY 2004 PHP APC. As expected, the updated ratios reduced the median cost per day for CMHCs. The revised medians are \$440 for CMHCs and \$206 for hospitals. Combining these files results in a median per diem PHP cost

of \$303. As with all APCs in the OPPS, the median cost for each APC is scaled to be relative to a mid-level office visit and the conversion factor is applied. The resulting APC amount for CY 2004 is \$286.82 of which \$57.36 is the beneficiary's coinsurance.

Comment: With respect to the methodology used to establish the PHP APC amount, commenters expressed concern that data from settled cost reports fails to include costs reversed on appeal and that there are inherent problems in using claims data from a different time period like available cost-to-charge ratios on settled cost reports.

Response: We used the best available data in computing the APCs. The January 17, 2003 Program Memorandum directed FIs to update the cost-to-charge ratios on an ongoing basis whenever a more recent full year cost report is available. In this way, we hope to minimize the time lag between the cost-to-charge ratios and claims data.

Comment: One commenter provided links to certain data files that were used to establish the APC rates. Since APC 0033 and certain HCPCS codes that are only paid under OPPS when they are furnished as part of a PHP were not included in these data files, the commenter believed that the data used to establish the PHP APC amount is incomplete.

Response: These data files are provided so that interested parties can study the costs associated with the HCPCS codes that comprise each APC and other analyses. We are required to include the HCPCS codes within each APC that are similar in resource use. This is not the case with the PHP APC (0033) in which the day of care is the unit that defines the structure and scheduling of PHPs and the composition of the PHP APC consists of the cost of all services provided each day. Although we require that each PHP day include a psychotherapy service, we do not specify the specific mix of other services provided and have focused our analysis on the cost per day rather than the cost of each service furnished within the day. As a result, we will add APC 0033 to the file that displays the APC median costs, but not the PHP data that show medians by HCPCS codes. We will continue to analyze the PHP data and will reconsider this position in the future.

Comment: One commenter related that administrative costs for CMHCs continue to be a major impediment to operating PHPs for Medicare beneficiaries. Medicare does not cover transportation to and from programs and does not cover meals. Almost all programs offer transportation because in