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Long-awaited bill would create LTACH certification criteria...

**INDUSTRY GROUPS AT ODDS
ON LONG-TERM ACUTE CARE HOSPITAL BILL**

The nation's two largest long-term acute care hospital (LTACH) groups are at odds over newly introduced legislation that would tie a facility's LTACH status to the percentage of its patients occupying high-severity diagnosis-related groups (DRGs).

The Acute Long Term Hospital Association (ALTHA), which prepared the legislation, says the bill will ensure that only the most medically complex patients are admitted to LTACHs. But some other hospital groups -- including the National Association of Long Term Hospitals (NALTH) and American Hospital Association (AHA) -- are concerned that using DRGs to define hospitals is inappropriate and could destabilize the LTACH industry.

The bill (H.R. 6236) was introduced by GOP Rep. Phil English (PA) a day before Congress recessed for November's mid-term elections. The legislation comes as many in the industry are seeking baseline patient and facility criteria for LTACHs in the face of congressional and administration concerns that LTACHs too often admit patients who should remain in shorter-term acute care facilities or would be better suited in less-expensive post-acute care settings, such as inpatient rehab facilities and skilled nursing facilities.

The absence of such criteria has been a sticking point particularly in the industry's relationship with CMS, which is set in January to release proposed LTACH payment regulations expected to include significant cuts. In June 2004, the Medicare Payment Advisory Commission called for the creation of similar criteria to remedy alleged overpayments to the facilities.

A health lobbyist indicated the industry hopes the new legislation will eliminate CMS concerns about the value of LTACHs “and remove uncertainty” about their financial future under Medicare. ALTHA representatives say the bill would ensure the appropriateness of admissions and therefore cut Medicare costs by moving lower-acuity patients to less expensive post-acute facilities.

“While the bill would slow recent growth in LTAC hospital spending, ALTHA hospitals believe that responsible healthcare providers must support constructive solutions to sustain the Medicare continuum of care,” ALTHA CEO William Walters said in a statement.

Under the bill, hospitals would be required to screen patients using the new admission criteria, evaluate patients regularly to see that they still meet those criteria, and report certain quality measures in order to receive full Medicare payments. The bill would force hospitals to maintain a mandatory minimum percentage of high-acuity cases delineated by certain DRGs -- to be designated by the administration -- associated with higher severity medical conditions. Facilities failing to meet the criteria would see their Medicare payments drop to rates defined by the inpatient prospective payment system.

But opponents of the bill disagree with its requirements for retaining LATCH status. To retain LTACH status, between 50 percent and 75 percent of a facility’s patient population must receive treatment for one of several broad condition categories -- with the specific percentage to be set by the administration. Under the bill, qualifying conditions would include circulatory, neurological, renal, respiratory, skin, digestive, endocrine and metabolic ailments, as well as infectious diseases.

Additionally, the legislation would require the administration to designate LTACH DRGs related to those conditions, and require each facility to service a minimum percentage of patients falling into those LTACH DRGs -- also between 50 percent and 75 percent.

The critics say DRGs are “gameable,” and not specific enough in all cases to distinguish which patients require the high-acuity services of LTACHs.

“DRGs have not been developed to define hospitals,” said a NALTH representative. “The use of DRGs in and of themselves does not discriminate sufficiently enough between cases that have both high and low resource use within the DRG, and therefore the system is subject to distortion.”

Others say the mandatory percentage system is a close cousin to an often-criticized 75 percent rule designed to regulate admissions to inpatient rehabilitation facilities. “It looks a whole lot like the 75 percent rule in rehab,” the AHA source said, “and we’ve been fighting that for years.”

Added the NALTH rep: “We don’t think the industry should do that to themselves.”

Although the administration would be granted the power to alter the number of broad condition groups and applicable DRGs, some sources fear that creating concrete lists could be dangerous in a culture where health care trends often progress faster than the political will to reshape regulations.

“This town doesn’t like to change,” the AHA source said. “But health care changes pretty quickly.”

Other sources fear that just the opposite could happen. If the administration alters the number of DRGs deemed appropriate for LTACH care too frequently, sources say, the criteria for LTACH admissions could be in perennial flux.

“Under that [ALTHA] proposal, the definition of a long-term care hospital could change year to year, and therefore destabilize the industry,” the NALTH rep said.

NALTH has been shopping a competing proposal to lawmakers for months, but a bill has yet to be introduced. NALTH’s proposal -- like ALTHA’s -- would push CMS to provide LTACHs with budget-neutral DRG weights and wage adjustments annually. But the NALTH proposal would not link the medical necessity of admissions to specific DRGs, instead pushing for a broader review of the medical necessity of services paid by Medicare to LTACHs (see Inside CMS, July 13).

Even if all parties were to agree on an LTACH bill, industry voices are not optimistic the legislation will move anytime in the near future. If Republicans maintain control of the House and Senate after November’s mid-term elections, conventional wisdom says their majority is almost certain to be trimmed. And if the Democrats retake one or more houses, they still won’t hold the majority until January, and even then their margins are likely to be thin as well.

“It’s gridlock,” the AHA source said.