

CMS Decision On-Call
Lab and Method II Billing
New CAH Relocation Rules
New CAH Provider-based
Rules
Other new regulations



Section One

CAH On-Call Cost



CAH Definitions

CMS Administrator overturned PRRB decision
2008-D40

Ruled that CRNA on-call cost was not an
allowable cost.

Provided additional Medicare definitions



CAH Definitions

- ✓ Standby cost is defined as unused beds and facilities.
- ✓ Availability cost is defined as ER physicians on the premises covering the ER.
- ✓ On-call cost is defined as cost incurred by hospital personnel that are off the premises.



CAH Definitions

- ✓ Standby cost is allowable
- ✓ Availability cost is allowable
- ✓ The only on-call cost that is allowable is ER physician and midlevel practitioners.
- ✓ All other on-call cost is not identified as allowable cost in the Medicare regulations.



CAH Definitions

CMS Representatives Stated the Following:

- ✓ CAHs payment for staff on-call time is not usual and customary with the healthcare industry and is rarely done.
- ✓ CMS has never paid for staff on-call cost ever.
- ✓ On-call cost being discussed is related to RNs, lab and radiology technicians, and maintenance personnel



What Do We Do?

A legislative solution may be the only cure.

On-call cost incurred by hospitals for nurses, technicians, and other hospital personnel that is reasonable and customary within the hospital industry will be included in the definition of reasonable cost that are fully allowable cost under the regulations governing cost-based reimbursement.



What Do We Do?

A legislative solution may be the only cure.

On-call cost incurred by hospitals for CRNAs that is reasonable and customary within the hospital industry will be included in the definition of reasonable cost that are fully allowable cost under the regulations governing CRNA pass through reimbursement.



What Do We Do?

A legislative solution may be the only cure.

The portion of on-call cost incurred by CAHs for physicians including specialists (surgeons, OB, and others) that are on-call for emergency cases after normal clinic hours during period of time when the physicians are not providing patient care; will be included in the definition of emergency room practitioner availability cost that are fully allowable cost under the regulations governing cost-based reimbursement for emergency room practitioner availability.



What Do We Do?

A legislative solution may be the only cure.

Currently CMS considers an entire county as urban if it has one urban cluster located within the county. This is the same definition used for PPS hospital reimbursement purposes.

CMS definition of rural for CRNA pass through reimbursement purposes should include all locations outside the urbanized area as defined by the US Bureau of Census.



What Do We Do?

A legislative solution may be the only cure.

The CMS person responsible for stating that hospitals do not incur cost for on-call hospital staff and who do not believe that CMS has ever paid for such on-call cost will be given a tooth brush and assigned to the CMS bathrooms for the duration of his or her career.



Section Two

Laboratory Services Update



Laboratory - Prior to 7-1-09

To be paid cost plus 1%,
specimen must be collected within
the CAH



Laboratory - Prior to 7-1-09

Fee Scale Reimbursement if
collected in the
NH, RHC, HHA, or any other
locations operated by CAH



Laboratory - After to 6-30-09

To be paid cost plus 1%
specimen collected
within the CAH
or



Laboratory - After to 6-30-09

To be paid cost plus 1%
specimen collected
by CAH employee
or



Laboratory - After to 6-30-09

To be paid cost plus 1%
specimen collected by employee of
CAH provider-based unit
(RHC, NH, HHA)
or



Laboratory - After to 6-30-09

To be paid cost plus 1%
patient received other services
from CAH on same day
or



Laboratory - After to 6-30-09

To be paid cost plus 1%
Thank Congress



Section Three

CAH Proposed Method II
Billing Change



Method II Billing

Current Method II Billing

Facility component - cost plus 1%
Physician component - fee scale plus
12%



Method II Billing

Proposed Method II Billing

Facility component - cost without 1%
Physician component - fee scale plus
12%



Method II Billing

Proposed Method II Billing

CAH must give up 1% on all outpatient
services to receive fee scale plus 12% on
physician component



Section Four

CAH Relocations



CAH Types

- ✓ CAHs (real CAH) that meet federal distance requirements
- ✓ CAHs (necessary provider) met state requirements before 1-1-06
- ✓ CAHs (it) that met old federal requirements but do not meet the current distance requirements



What are the Current Federal Distance Requirements?

- ✓ 35-mile drive to next nearest hospital or CAH
- ✓ 15-mile drive to next nearest hospital or CAH on secondary roads and/or through mountainous terrain (measure only distance on secondary road or mountainous road)



What is a Secondary Road? Any Road Except the Following

- ✓ Numbered federal highway
- ✓ State highway with two or more lanes each way
- ✓ Road on US geological survey map (FGDC) with symbol for primary highway or divided by median strip



What is Mountainous Terrain?

Identified as mountainous terrain by any official maps

Or

Other documents prepared for and issued to the public by the state agency responsible for highways in the state (department of transportation)

Or

US geological survey



What is Mountainous Terrain?

CMS has indicated

To document the 15-mile mountainous terrain criteria:

It is acceptable to go to the applicable state department of transportation and request a letter on official letterhead be provided to the applicant CAH indicating the state's criteria for designation as mountainous and that the criteria would be met by the applicant CAH. (Keep in mind that it is travel distance through mountainous terrain must equal or exceed 15 miles)

Each state can have its own criteria.



If a CAH Meets the Current Federal Distance Requirements

- ✓ Relocation of CAH approved without additional requirements
- ✓ May establish provider-based location without penalty as long as location also meets current federal distance requirements



If a CAH Does Not Meet the
Current Federal Distance
Requirements
but is a Necessary Provider

- ✓ May relocate only if specific criteria met
- ✓ May not establish provider-based location beyond current campus or locations



If a CAH Does Not Meet the
Current Federal Distance
Requirements and is not a
Necessary Provider

- ✓ You may only relocate if the new location meets the current federal distance requirements
- ✓ You may not establish provider-based locations off existing campus or locations



If a Necessary Provider Wishes
to Relocate

1. Must be rural
2. Must demonstrate CAH still meets all of the original requirements used by the state to establish necessary provider designation
3. After relocation 75% of same services provided
4. After relocation 75% of same staff at new location
5. After relocation 75% of same population served



If a Necessary Provider Wishes to Relocate (Cont.)

5. Before beginning relocation process must submit information to CMS regional office for preliminary approval that includes assurance of compliance with 1 thru 4 and this same method must be used to prove compliance after relocation
6. Final CMS approval will not be given until after the relocation is complete
7. If final approval not given - CAH status will be terminated and hospital may apply for PPS hospital status



Burden of Proof

ON CAH



Renovation or Remodel on Existing Main Campus

No CMS determination needed



Originally CMS Indicated that if a CAH Moved Just One Inpatient Bed from the Old Building to the New Building/Expansion

It was considered a relocation



Originally CMS Indicated that if a CAH Moved One Inpatient Bed from the Old Building to the New Portion of the Building

CMS has now "backed off" that bed movement policy



All New Facilities and Replacement Facilities Even if on Same Campus as Original CAH

Must comply with CMS relocation requirements



All New Facilities and Replacement Facilities Even if on Same Campus as Original CAH

Generally the old building must be torn down



What is 75% of Same Services?

1. List services provided at current location using perhaps AHA annual hospital survey data or other acceptable method
2. List services using same method as 1 and demonstrate 75% of services offered at new location - simple list
3. May add new services but will not count for or against comparison



What is 75% of Same Staff?

1. List staff by name at current location
2. Staff includes medical, contracted, and direct employees
3. Staff may exclude contracted working less than 50%



What is 75% of Same Staff? (cont.)

4. List staff by name after move and demonstrate 75% same
5. May offer historical turnover data – suggest providing it during preliminary approval process
6. Evidence of recruitment efforts, decreasing staff turnover, other arguments



What is 75% of Population Served?

1. If at same location or close proximity – no further analysis is required
2. Use patient data by zip code before move
3. Use patient data 6 to 12 months after move to demonstrate 75% compliance – see example in *Interpretive Guidelines*
4. May eliminate zip codes with less than 5% of total



Preliminary Request

- Copy of original necessary provider designation
- Demonstrate compliance with original necessary provider criteria at new location
- Addresses at current and future locations
- Demonstrate rural
- Information about method and compliance with 75% rules if necessary
- Timetable



Preliminary Approval

Not binding

Only final approval counts



Preliminary Application

Establishes methods that will be used in final request to demonstrate compliance with 75% rules



Preliminary Application

Make sure you have selected methods that will support the final application without any doubt



Relocation Issues

Real CAH - none

However, CMS indicated that they will consider all provider-based locations when measuring distance requirement



Relocation Issues

Real CAH - maybe

What if neighboring PPS hospital established new provider-based location within federal distance requirement?



Relocation Issues

Situation when no longer real CAH, i.e. does not meet federal distance requirement


May now be an "it"



Relocation Issues

Necessary provider


Danger may exist if cannot meet original state criteria



Relocation Issues

Necessary provider


CMS indicated that must meet exact criteria as originally met



Relocation Issues

Real CMS question

- ✓ CAH originally met 4 of 8 original state criteria
- ✓ CAH now meets 5 of 8 original state criteria; however, one of the original 4 not met
- ✓ CMS response - CAH does not meet original state criteria - relocation will not be permitted



Relocation Issues "IT"

- ✓ Does not meet current federal distance requirement
- ✓ Has never been a necessary provide
- ✓ CMS asked about this and provided no response except to confirm that this issue was not addressed in the new regulations



Section Five

Provider-based Services



CAH New Provider-based Regulations

Draft regulations were issued and the comment period was over before many CAHs knew about it



New Provider-based
CAH Regulations
(Restrictions)

Effective January 1, 2008



Real CAH
New Provider-based Locations

May establish new provider-based
locations without restriction as long as
new location meets current federal
distance requirement



Real CAH
New Provider-based Locations

If new location does not meet current
federal distance requirement
new location cannot be provider-based



Necessary Provider New Provider-based Locations

We believe CMS is trying to limit
your ability to serve your community



Necessary Provider New Provider-based Locations

“We (CMS) believe the necessary
provider designation cannot be
considered to extend to any new
facilities not in existence when the CAH
received its original necessary provider
designation”



Necessary Provider New Provider-based Locations

“We (CMS) believe the creation of any
new location that would cause any part
of the CAH to be situated at a location
not in compliance with the federal
distance requirements would cause the
entire CAH to violate the distance
requirement”



Necessary Provider New Provider-based Locations

Perhaps we should put an “un”
in front of this label



Necessary Provider New Provider-based Locations

- ✓ Initially CMS indicated that provider-based RHCs are included in these provider-based requirements
- ✓ The **final** regulations clearly **exclude** provider-based RHCs from all new CAH provider-based regulations.



Necessary Provider New Provider-based Locations

Initially “the necessary provider found in violation of these provider-based regulations can avoid termination action by converting to PPS.”



Necessary Provider New Provider-based Locations

Final Regulation Same Except:
CAH will be given 90 days to “come back into compliance and meet all of the Conditions of Participation.” This may include changing a recently established provider-based location to a freestanding location.



Necessary Provider New Provider-based Locations

- ✓ Can CMS require any provider-based services established after CAH established and at new location to be eliminated?
- ✓ Final regulations grandfathered in all such locations



Necessary Provider New Provider-based Locations

“We (CMS) believe the necessary provider designation cannot be considered to extend to any new facilities not in existence when the CAH received its original necessary provider designation”



Necessary Provider New Provider-based Locations

Final regulations – expansion of necessary provider campus after CAH certification and before January 1, 2008 will also be grandfathered in



Necessary Provider New Provider-based Locations

Final regulations – provider-based projects started before January 1, 2008 may qualify for an “under development” exception from the CMS regional office



Necessary Provider New Provider-based Locations

Final Regulations –
CMS regional office should consider:

1. Documentation of architectural plans
2. Construction bids
3. Construction expenditures
4. Construction application
5. Other issues indicating extent of progress on project



Necessary Provider New Provider-based Locations

Can under development be
considered for relocation projects?

MAYBE YES

MAYBE NO



Necessary Provider New Provider-based Locations

Necessary providers can establish as many non
provider based (freestanding) services as
desired:

1. Services not billed under CAH provider
number and reimbursed based on cost
2. Separately licensed
3. May be departments of CAH



Necessary Provider New Provider-based Locations

- ✓ CMS has defined campus using the
250 yards from the main hospital
building rule.
- ✓ CMS also indicated that campus could
be defined on a CAH by CAH basis by
the CMS regional
administrator



Necessary Provider New Provider-based Locations

Situation: A necessary provider CAH leases off campus space for a provider-based service prior to 1-1-08 and is forced to move after 1-1-08.

Question: Can the CAH move that service to a new off campus location?



Necessary Provider New Provider-based Locations

Answer: **No ...**

... Unless it qualifies for an under development designation



Necessary Provider New Provider-based Locations

Situation: A necessary provider builds an off campus structure for use by the business office and non-patient care support services.

Question: Can the CAH claim the related cost on the cost report and receive cost-based reimbursement under the CAH program?



Necessary Provider New Provider-based Locations

Answer: CMS regional office did not know.

The question was referred to CMS central.



Necessary Provider New Provider-based Locations

Situation: A necessary provider owns undeveloped property on 1-1-08 that extends beyond the main building by more than 250 yards.

Question: Can the CAH build on it in the future?



Necessary Provider New Provider-based Locations

Answer: Maybe ...

... CMS regional office will use its judgment to determine if the property outside the 250 yard limit is within the definition of campus.



Section Six

New Patient Notifications



Any Hospital or CAH Without
24-7 On-site Physician Coverage
Must Notify Patient in Writing

Effective October 1, 2007



Any Hospital or CAH Without
24-7 On-site Physician Coverage

Notification applies to all inpatients
and outpatients



Any Hospital Without 24-7 On-site Physician Coverage

Mid-level coverage does not count



Any Hospital Without 24-7 On-site Physician Coverage

Must describe how hospital or CAH will
meet the medical needs of any patient
who develops an emergency medical
condition



Any Hospital Without 24-7 On-site Physician Coverage

RECOMMENDED NOTIFICATION

"Physicians may not be in the hospital 24 hours per day, seven days per week. However when physicians are not in the hospital, we do have physicians on-call and available to respond to any medical emergencies within a short period of time. If a medical emergency occurs while physicians are not in the hospital, well trained registered nurses and other health care professionals are always available in the hospital and can provide immediate medical attention to anyone in need."



Any Questions?

Michael R. Bell & Company, PLLC

12 East Rowan, Suite 2

Spokane, Washington 99207

(509) 489-4524

Email: bellcpa@bellcpa.org

Website: www.bellcpa.org