Medicare DSH Where Are We Now? Where Are We Headed With Worksheet S-10?

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Medicare Worksheet S-10

Overview

- Background/Factors that affected creation of Worksheet S-10.
- Detail calculations of Worksheet S-10.
- Potential issues with current version of Worksheet S-10.
- Medicare DSH Uncompensated Care (UCC) CMS consideration of using Worksheet S-10.
- Comments/Responses in FFY 2017 Inpatient Final Rule.
- Observations from Medicare DSH UCC allocation using Worksheet S-10.

Medicare Worksheet S-10

Background / Creation of Worksheet S-10

Medicare Worksheet S-10 Regulatory Environment

- Increased scrutiny of hospital tax-exempt status.
- What is equitable balance of aggressive collections and provision of charity care?
- The Joint Committee on Taxation (JCT), a nonpartisan committee that assists Congress with tax legislation, estimated that in 2002, nonprofit hospitals received tax benefits of $12.6 billion at the federal, state, and local levels. The amount increased to $24.6 billion in 2011. These numbers include forgone taxes, public contributions and financing. (GAO-08-880)

Medicare Worksheet S-10 Regulatory Environment

- HR 5543 / Benefits and Improvement Act (BIPA) of 2000. The Secretary of Health and Human Services shall require any subsection (d) hospitals (as defined in section 1886 (d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) to submit to the Secretary, in the cost reports submitted to the Secretary by such hospital for discharges occurring during a fiscal year, data on the costs incurred by the hospital for providing inpatient and outpatient hospital services for which the hospital is not compensated, including non-Medicare bad debt, charity care, and charges for Medicaid and indigent care.
- Effective date for data on uncompensated care: cost reports beginning on or after October 1, 2001.

Medicare Worksheet S-10 Regulatory Environment

Various news stories from this time period:

- March 2003 – Wall Street Journal

  "The most vulnerable members of society are being asked to 'pay cash at list'." – Bruce Vladeck

  "There is someone to negotiate on behalf of the insurance companies. There is someone to negotiate on behalf of the state ... . But there is no one to negotiate on behalf of people without insurance." – Elizabeth Warren

- August 2004 – USA TODAY

  "Three congressional committees are investigating non-profit hospitals, looking at how they charge the uninsured, the tactics they use to collect unpaid bills and the amount of charity care they provide."

  "Any business has a right to be paid for their goods and services. But if not-for-profit hospitals are going to pursue (debt) collections like any other business, then they need to pony up and pay taxes like any other business." - Stan Jenkins (chairman of the Champaign County Board of Review)

Medicare Worksheet S-10 Regulatory Environment

- January 2003 – Wall Street Journal

  " Tenet Healthcare Corp. , in separate but related moves, settled litigation with a group of Latino patients who had accused the hospital chain of price gouging and unveiled a new policy of "fair treatment" for uninsured patients."

  "Under its "Compact with Uninsured Patients" announced Tuesday, Tenet said patients without insurance will be billed at discounted rates, subject to federal regulatory approval."

- January 2015 – PropPublica and NPR

  "The practices appear to be extremely punitive and unfair to both low income patients and taxpayers who subsidize charitable hospitals' tax breaks." – Senator Grassley

  "If they don't change their behavior voluntarily, their responsibilities may have to be spelled out in law." – Senator Grassley

Medicare Worksheet S-10 Regulatory Environment

- Due to scrutiny related to billed charges, charity care and tax-exempt status, there are several sources for hospitals to document uncompensated care.
  - Audited Financial Statements - Footnote disclosures.
  - Medicare Cost Report – Worksheet S-10
  - Form 990, Schedule H – IRS requirement for tax exempt hospitals
  - Community Benefit Reporting – Community Health needs Assessments and various other state and local reports
  - Medicaid DSH Surveys

Medicare Worksheet S-10

Detail Calculations

Medicare Worksheet S-10

Calculations of Uncompensated Care Cost:

- Line 1. Cost to Charge Ratio (CCR)
  - One Percentage calculated for entire provider number
  - In total, not by cost center
  - Includes subproviders
  - Excludes Interns & Residents cost
- Line 2. Net Revenue from Medicaid
  - Actual payments received or expected to be received for services in cost report period.
- Line 3-5. Medicaid DSH/Supplemental payments. If provider receives these payments and they are not included on line 2, they are entered on these lines.

Medicare Worksheet S-10

- Line 6. Medicaid charges
- Line 7. Medicaid cost (Charges x CCR)
- Line 8. Medicaid Cost/Payment difference. (Amount appears only if there is a loss. If payments exceed cost, this line is zero).
- Lines 9-12. SCHIP – Calculation similar to Medicaid to compute gain/loss.
- Lines 13-16. Local Government indigent care program. Calculation similar to Medicaid to compute gain/loss.
- Lines 17-19. Grants & appropriation

Medicare Worksheet S-10

- Line 20. Charity care initial payment obligation split by insured patients and uninsured patients for services delivered in cost report period.
  - Does not include charges for uninsured patients that do not meet charity care criteria.
  - Does not include any courtesy discounts.
- Line 21. Cost of Charity Care (Initial Payment Obligation X CCR)
- Line 22. Partial Payments
- Line 23. Net Cost of Charity Care (Cost less Payments)
- Line 24-25. Days over Medicaid Limit

Medicare Worksheet S-10

- Line 26. Bad Debt Expense. Total facility charges written off for services delivered in the cost report period.
- Line 27. Medicare Reimbursable bad debts from other cost report worksheets. (Inpatient, Outpatient, Subprovider, SNF).
- Line 28. Total bad debt expense less Medicare Bad Debt.
- Line 29. Bad Debt Cost – Line 28 X CCR.
- Line 30. Total of uncomp cost excluding Medicaid & SCHIP.
- Line 31. Total of all uncomp cost – Medicaid, SCHIP, local government, charity & bad debt.

Medicare Worksheet S-10

Potential Issues

- CCR includes all components on the Cost Report (Hospital, Subproviders & SNF).
- CCR is in total, not as accurate as calculating for each cost center.
- CCR excludes Interns & Residents cost.
- Medicaid/SCHIP gains do not offset uncompensated care cost – Should they?
- Charity care initial obligation is for services in cost report period. Is 5 months ample time to identify all charity accounts?

Medicare Worksheet S-10

Potential Issues

- Bad Debt Expense – same timing issues as Charity Care.
- Bad Debt Expense – based on service dates in cost report period but Medicare bad debt offset could have accounts several years old.
- Bad Debt Cost – CCR is applied to bad debt amount. Medicare Bad Debt amount is not charges.
- Charity Care criteria can vary significantly among providers.
- Courtesy discounts are not included in uncompensated care cost.

Medicare DSH Uncompensated Care Cost (UCC)

- 2007 MEDPAC report on "Empirically Justified" Medicare DSH.
- ACA Split DSH into 2 components – "Empirically Justified" & Uncompensated Care (UCC).
- DSH Uncompensated Care Pool to be allocated among DSH hospitals based on their specific portion of UCC to the total.
- Secretary charged with developing allocation methodology (Factor 3).
- Proposed rule for FFY 14 stated CMS intention to use Medicaid days plus SSI days as the allocation.

Medicare DSH Uncompensated Care Cost (UCC)

- Why wasn't S-10 used as basis for Factor 3?
  - Concerns expressed by hospitals after CMS/provider call in January 2013.
  - S-10 is "a new data source" and has been used for specific payment purposes only in relatively restricted ways" (EHR).
  - S-10 has not been subject to audit other than related to EHR.
  - CMS believes that when information requested drives payment, it is more likely to be accurate.

Medicare DSH Uncompensated Care Cost (UCC)

- Why wasn't S-10 used as basis for Factor 3 (cont.)
  - CMS uses wage index as example that information must be audited to be used for payment purposes.
  - Hospitals expressed concern that they have not had enough time to learn how to submit accurate and consistent data on Worksheet S-10.
  - S-10 instructions still require clarification to ensure consistency.
  - May propose to use S-10 in the future "once hospitals are submitting accurate and consistent data."

Medicare DSH Uncompensated Care Cost (UCC)

- CMS has continued to use the Medicaid days & SSI days as the proxy for DSH UCC.
- Proposed Rule and Final Rule for FFY 2016 continues the same proxy.
- Proposed Rule FFY 2016 –
  - "For FY 2016, we believe it remains premature to propose the use of Worksheet S-10 for purposes of determining Factor 3 and, therefore, are proposing to continue to employ the utilization of insured low-income patients to determine Factor 3." "We believe this methodology would give hospitals more time to learn how to submit accurate and consistent data through Worksheet S-10, as well as give CMS more time to continue to work with the hospital community and others to develop the appropriate clarifications and revisions to Worksheet S-10 to ensure standardized and consistent reporting of all data elements."
  - "We still intend to propose through future rule making the use of the Worksheet S-10 data for purposes of determining Factor 3."

Medicare DSH
Uncompensated Care Cost (UCC)

Final Rule FFY 2016 -

- Commenters that support continued use of the current proxy focused on two areas of improvement for S-10. (1) Changes to the form and (2) consistent audit process.
- Changes to the Worksheet – Form and instructions should be changed to improve consistency and accuracy. Specific comments include:
  - Should charity care charges be reported for inpatient, outpatient or both?
  - Charity care charges should be reported separate for inpatient and outpatient with a CCR for each.

Medicare DSH
Uncompensated Care Cost (UCC)

Final Rule FFY 2016 - Comments (cont.) -

- UCC should include physician cost.
- Add a category for self-pay to distinguish uninsured from those with third-party coverage.
- CCR used on S-10 should include medical education costs.
- Charity Care charges should be reported based on write off date, not service date.

Medicare DSH
Uncompensated Care Cost (UCC)

Comments to 2016 Final Rule (cont.) -

- Discounts are mandated by certain states and therefore should be included in uncompensated care.
- Presumptive eligibility should be allowed to identify charity accounts.
- Charity care for patients in high deductible plans should be included.
- Requested clarity on time period used to report bad debt expense.

Medicare DSH
Uncompensated Care Cost (UCC)

Comments to 2016 Final Rule (cont.) -

- Offset Medicaid cost by Medicaid DSH & Supplemental payments.
- Ensure audit process is applied consistently by contractors and make audit instructions public.
- Implement a review process for S-10 similar to that used for wage index.
- Means to appeal adjustments to S-10.

Medicare DSH Uncompensated Care Cost (UCC)

Comments to 2016 Final Rule (cont.) -

- Factor 3 based on Medicaid days unfairly rewards providers in Medicaid expansion states.
- Apply wage index adjustment to Factor 3.
- Allina decision is not accounted for in Factor 3.

Medicare DSH Uncompensated Care Cost (UCC)

- CMS Responses to 2016 Final Rule Comments:
  - "Although we have not decided upon revisions to the Worksheet S-10 instructions at this time, we remain committed to making improvements to Worksheet S-10."
  - Plans to revise and clarify instructions.
  - Intend to use S-10 "within a reasonable amount of time."
  - Considering a possible timeline for using Worksheet S-10 data to calculate Factor 3. Timeline to be addressed in FFY 2017 proposed rule.
  - Allina has no bearing on estimate for Factor 3.
  - Hospitals have until August 31, 2015 to review and submit comments on accuracy of Factor 3 table.

Medicare DSH
Uncompensated Care Cost (UCC)

Modeling Factor 3 Based on Worksheet S-10

- Used Hospital FY 2014 to obtain S-10 information from HCRIS.
- Allocation is based on Final FFY 2015.
- 125 DSH providers did not complete S-10. Those providers would lose $277M combined.
- Two options to base allocation – with or without Medicaid, SCHIP & local government shortfall.
  - Which one should be used?

Medicare DSH
Uncompensated Care Cost (UCC)

Modeling Factor 3 Based on Worksheet S-10

- Observations from Scenario using only charity & bad debts (S-10 line 30).
  - Redistribution – Fixed Pool $! Total UCC pool for FFY 2015 = $7.6B, FFY 2016 = $6.4B.
  - Notable hospital in NY is biggest loser at almost $50M. Probably because they have a huge amount of Medicaid days.
  - Top 3 losers are all NY hospitals.
  - Top 16 winners combined impact is almost $1B.
  - Top winner is a rehab hospital with $176M gain. Total UCC Cost is $737M, total Worksheet A expenses are $269M.

Medicare DSH
Uncompensated Care Cost (UCC)

Observations from Scenario using Charity Care, Bad Debt & Medicaid, SCHIP, local government (S-10 line 31)

- There are 5 NY hospitals that are big losers. Combined impact is $97M.
- Several large safety nets are among the biggest winners.
- Redistributive – winners are those with low Medicaid days & high UCC cost. Losers are those with high Medicaid days & low UCC cost.

Medicare DSH
Uncompensated Care Cost (UCC)

Example 1: Gain (Loss) on Factor 3 conversion to S-10

Medicare Days	202,154	42.96%
Medicaid Days	221,549	47.08%
Other Payors/Uninsured	46,884	9.96%
Total Days	470,587	100%

- Uncompensated Care Cost: $138,000,000
- Loss on Conversion to S-10: $34,000,000 (Based on FFY 2015 Final Rule)
- Mean Medicaid days in pool: 10,876 (20 x mean)
- Mean UCC in pool: $13,403,000 (10 x mean)

Medicare DSH
Uncompensated Care Cost (UCC)

Example 2: Gain (Loss) on Factor 3 conversion to S-10

Medicare Days	13,000	11.05%
Medicaid Days	53,761	45.71%
Other Payors/Uninsured	50,843	43.24%
Total Days	117,604	100%

- Uncompensated Care Cost: $344,000,000
- Gain on conversion to S-10: $45,000,000 (Based on FFY 2015 Final Rule)
- Mean Medicaid days in pool: 10,876 (4.9 x mean)
- Mean UCC in pool: 13,403,000 (25 x mean)

Medicare DSH
Uncompensated Care Cost (UCC)

Conversion to S-10

- Implementing any type of redistribution is typically difficult because providers that lose will fight.
- Some of the big losers come from states with significant political clout.
- Significant issues still exist with S-10 data, low likelihood of change in the near term.
- Will there be a phase in period to convert to S-10? (Capital, Rehab PPS)
- Will there be a period of time to "refresh" data on filed reports Worksheet S-10? Some DSH providers did not complete for 2014.
- What cost report years would CMS use to start allocation?

Medicare DSH Uncompensated Care Cost (UCC)

Recommendations

- Evaluate prior years Worksheet S-10 for accuracy and completeness.
- Prepare current cost report Worksheet S-10 as if DSH UCC allocation will be using it as basis for Factor 3.
- Continued diligence and focus on reporting of Medicaid days on Worksheets S-2 and S-3.
- Consider outside assistance and analysis of current or prior years S-10.
- Monitor proposed rule in April 2016 for conversion timeline.

Questions????

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