May 28, 2024

SUBMITTED ELECTRONICALLY VIA www.regulations.gov

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Fiscal Year 2025 and Updates to the IRF Quality Reporting Program Proposed Rule (CMS-1804-P)

Dear Administrator Brooks-LaSure:

The undersigned members of the Coalition to Preserve Rehabilitation ("CPR") appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services' ("CMS") *Fiscal Year 2025 Inpatient Rehabilitation Facility Prospective Payment System Proposed Rule* ("proposed rule").

CPR is a coalition of more than 50 national consumer, clinician, and membership organizations that advocate for policies to ensure access to rehabilitative care so that individuals with injuries, illnesses, disabilities, and chronic conditions may regain and/or maintain their maximum level of health and independent function. CPR is comprised of organizations that represent patients – as well as the clinicians who serve them – who are frequently in need of the rehabilitation care provided in IRFs and other settings of post-acute care ("PAC"), such as home health.

The proposed rule adopts a market basket and payment update specific to IRFs and revises relative weights for the IRF case-mix groups. It also addresses quality measurement and reporting as well as other aspects of the IRF payment system. CPR does not intend to comment on these sections of the proposed rule. Instead, our comments focus on CMS' Request for Information ("RFI") on the development of an IRF five-star rating system, similar to what is currently implemented in the Skilled Nursing Facility ("SNF") setting, as well as broader concerns with access to appropriate rehabilitation for complex conditions in the Medicare IRF benefit.

I. Request for Information on the Development of an IRF Star Rating System

Overview of RFI

CMS is requesting stakeholder feedback on the creation of a five-star methodology for IRFs that can effectively differentiate the quality of care provided by IRFs across the country. According to CMS, these star ratings would help consumers easily compare and select providers based on quality. CMS intends to collaborate with the IRF community and offer multiple opportunities for IRFs and other stakeholders to provide input on the development of a star rating system for IRFs.

CMS is specifically seeking public comment on the following questions:

1. What specific criteria should CMS consider when selecting measures for an IRF star rating system?

2. How should CMS present IRF star ratings information to consumers to ensure it is most useful to them?

CPR Response

While CPR appreciates CMS' engagement with the field in considering whether to implement a Five-Star Rating System for IRFs, we do have some concerns with this potential effort given the current reliability and useability concerns reported with the Skilled Nursing Facility ("SNF") 5-Star Rating System. The SNF 5-Star Rating System has been in place for several years with mixed results. Many argue the system is widely "gamed" and not a reliable and timely indicator of high quality SNFs. Critics assert that the system is more focused on measuring safety than quality and is heavily process oriented. **Until these issues are resolved in a satisfactory manner, CPR believes that CMS should delay efforts to create new Star Ratings programs for other providers, including IRFs.**

We also wish to note that a major component of the SNF 5-Star Rating System consists of measures on sufficient staffing, which we believe is not a major issue in IRFs. Additionally, the IRF Quality Reporting Program ("QRP") includes a number of claims-based measures that utilize claims data from other providers as part of the measure calculation process. Without access to all the claims data attributable to IRF patients, CPR has concerns that IRFs would be unable to identify which patients are negatively impacting their performance on these measures or learn how to improve performance or reduce readmissions. **While CPR does not outright oppose the implementation of a Star Rating system for IRFs, we wish to stress to CMS that the quality measures selected under the IRF rating system will be critical to accurately assessing the quality of care provided in IRFs.**

If CMS continues to evaluate existing measures for consideration of inclusion in any Star Ratings system in the future, providers must have timely access to all data and information utilized for the measures in order to monitor and potentially improve performance. **CPR recommends that any measures considered for use in a Star Rating system must be**

both timely and patient-focused. A number of measures currently included in the IRF QRP and displayed on Care Compare utilize information that is two, or in some instances even three, years old and includes two years' worth of information. This outdated information makes it increasingly difficult to recognize and display any performance improvement that has occurred in the more recent term, and does not represent the current performance of these providers. Given this information, CPR therefore urges CMS to obtain extensive feedback from stakeholders about measures that are important and meaningful to patients in order to support their reliability and useability in any future Star Rating system.

II. Lengths of Stay and Other Patient Access Concerns in IRFs

Separate and distinct from the IRF Star Ratings system discussion, CPR would like to again raise our long-held concerns that some patients are finding it increasingly difficult to access the full range of medically necessary rehabilitation services across the spectrum of post-acute care providers to which Medicare beneficiaries are entitled under Medicare coverage guidelines. In particular, our members have heard from patients, especially those with severe and complex rehabilitation needs, that they are unable to achieve a full inpatient stay long enough to address their myriad needs. This occurs across post-acute care settings and does not seem to be limited to any one type of condition or discharge location. In many cases, Medicare Advantage plans place great pressure on post-acute care providers to discharge their patients as soon as possible. Some patients under Medicare are even told that the Medicare coverage policies are dictating early discharge, even when the treating physician or lead provider believe the patient could achieve a better outcome with a longer length of stay.

We recognize that the nature of a prospective payment system will clearly incentivize shorter lengths of stay; however, this issue seems to be accelerating in recent years. This also appears to be one symptom of a broader trend towards limiting access to post-acute care – CPR has long expressed to CMS our concerns with the misuse of prior authorization and other utilization management techniques, the use of proprietary guidelines to overrule physician judgment, the barriers to access created by the Patient-Driven Payment & Groupings Models (in the Skilled Nursing Facility and Home Health payment systems, respectively), and other policies that result in patients being denied the medically necessary care they need. While we do not outright oppose the implementation of a Star Ratings system for IRFs, we urge CMS to delve deeper into the trends of *underutilization* in the Medicare post-acute care benefit and work with stakeholders to identify ways to improve patient access to care, not further restrict such access.

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We greatly appreciate your consideration of our comments on the *Fiscal Year 2025 Inpatient Rehabilitation Facility Prospective Payment System* proposed rule. Should you have any further questions regarding this information, please contact Peter Thomas or Michael Barnett, coordinators for CPR, by e-mailing Peter.Thomas@PowersLaw.com or Michael.Barnett@PowersLaw.com, or by calling 202-466-6550.

Sincerely,

The Undersigned Members of the Coalition to Preserve Rehabilitation

American Academy of Physical Medicine & Rehabilitation
American Congress of Rehabilitation Medicine
American Music Therapy Association
American Spinal Injury Association
American Therapeutic Recreation Association
Brain Injury Association of America*
Center for Medicare Advocacy*
National Association for the Advancement of Orthotics and Prosthetics
National Association of Rehabilitation Providers and Agencies
RESNA
Spina Bifida Association
United Cerebral Palsy
United Spinal Association*

****Member of the CPR Coalition Steering Committee***