

GME @ Dentons - Displaced Resident Policies in the FY 2021 IPPS Final Rule

September 8, 2020

On September 2, CMS released the Fiscal Year 2021 Inpatient Prospective Payment Systems (IPPS) for Acute Care Hospitals and the Long-Term Care Hospital (LTCH) Prospective Payment System (PPS) Final Rule, which finalized policies to define “displaced residents” for purposes of determining whether the closing hospital or program can voluntarily transfer temporary cap slots to other hospitals that agree to train the residents for the remainder of their programs.

In a previous GME @ Dentons article, Differences between program closure rules and hospital closure rules, we provided an overview of the relevant regulations and policies and the distinctions between the rules pertaining to program closure versus hospital closure. We noted in this article that CMS has previously taken the position that residents must be physically present at the closing hospital or the hospital that is closing the program (or on standard vacation) on the last or next-to-last day of the program (i.e., they cannot be training in another hospital) to be considered “displaced” residents.

In this year’s FY 2021 IPPS final rule, CMS finalizes modifications to this policy with the goal of addressing operational concerns and administrative challenges associated with the former approach. CMS’s new policies take into account the fact that residents should not fall outside the definition of “displaced residents” in circumstances such as: 1) transferring before closure while hospitals are winding down, 2) being assigned to and training in planned rotations at other hospitals; or 3) having been accepted into a program that closes before their training begins.

To address these issues, CMS has finalized the following changes to current Medicare policy related to temporary funding for displaced residents. First, residents will no longer be required to be present at the hospital that is closing the program on the last or next-to-the-last day of the program for temporary slot transfers to take effect. Instead, CMS will focus on the day that the closure is publicly announced (for example, via a press release or a formal notice to the Accreditation Council on Graduate Medical Education (ACGME)).

Second, CMS will allow funding to be transferred temporarily to hospitals on behalf of residents in planned out-rotations and on behalf of residents who matched into a program and who are not physically present at the hospital that is closing the program, but who intended to train (or return to training) at that hospital.

Finally, by replacing a reference to having “matched” into a GME program with having been “accepted” into a GME program, CMS clarifies that eligible displaced residents may include those who matched either through the National Resident Matching Program (NRMP) or Supplemental Offer and Acceptance Program (SOAP), and may even include residents and fellows who are accepted into an approved medical residency program outside of one of the commonly used match platforms.

To implement these changes, CMS is finalizing the following new definition of “displaced resident” in the Medicare GME regulations:

- i. Displaced resident means a resident who--

- A. Leaves a program after the hospital or program closure is publicly announced, but before the actual hospital or program closure;
- B. Is assigned to and training at planned rotations at another hospital who will be unable to return to his/her rotation at the closing hospital or program;
- C. Is accepted into a GME program at the closing hospital or program but has not yet started training at the closing hospital or program;
- D. Is physically training in the hospital on the day prior to or day of program or hospital closure; or
- E. Is on approved leave at the time of the announcement of closure or actual closure, and therefore, cannot return to his/her rotation at the closing hospital or program.

42 CFR 413.79(h)(1)(iii).

CMS also made conforming changes to the IME regulations at 42 CFR 412.105(f)(1)(ix).

To qualify for temporary increases in the Medicare resident cap, a receiving hospital will continue to be required to submit a letter to its Medicare Administrative Contractor (MAC) within 60 days of beginning to train a displaced resident. CMS proposes to modify existing policies regarding the information required in this letter to the MAC, however. Instead of full social security numbers of the displaced residents, CMS now only requests either: (1) the last 4 digits of the social security number of a displaced resident; or (2) the NPI of the displaced resident, in the receiving hospital's letter to its MAC requesting the temporary increase in its IME and DGME FTE resident caps.

These changes will take effect October 1, 2020. Please feel free to contact the GME@Dentons team listed above if you have questions about these policies.

Your Key Contacts



Susan Banks

Partner, Denver

D +1 303 634 4329

susan.banks@dentons.com