

Analysis of the Outcome of Leapfrog Comment Letter to the Centers for Medicare & Medicaid Services (CMS)

Regarding the CMS Proposed Rule on Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems (OPPS)

Based on CY 2024 Final Rule Issued by CMS November 2, 2023 | Analysis Prepared November 2023

Leapfrog Group Recommendation	Page # in Leapfrog Letter	Does the Final Rule Align with Leapfrog Recommendation?	CMS Final Ruling
Comments on Proposed Changes to ASC Quality Reporting (ASCQR) and Hospital Outpatient Quality Reporting (HOQR) Programs <i>Hospitals and ASCs report quality data to CMS to not receive a payment penalty</i>			
Retain the Left Without Being Seen (LWBS) measure in the HOQR Program	3	Yes	<p>CMS will continue to report the measure, which reverses their proposal to remove it.</p> <p>CMS responded to Leapfrog recommendation stating, “we have received new data indicating an increase (worsening) in LWBS rates that we believe warrants further investigation before potentially removing the LWBS measure since publication of the proposed rule.” [p. 1023]</p>
Support improvements to the following HOQR and ASCQR Program measures: <ul style="list-style-type: none"> • COVID–19 Vaccination Coverage Among Healthcare Personnel (HCP) measure • Cataracts: Improvement in Patient’s Visual Function Within 90 Days Following Cataract Surgery measure • Appropriate Follow-Up Interval for Normal Colonoscopy in Average Risk Patients measure 	HOQR: 3-4 ASCQR: 7	Yes	<p>CMS will make modifications to three measures as proposed. CMS Stated they are committed to keeping these measures, and our intent is to maintain these measures as voluntary while we consider mandatory reporting in future rulemaking. [HOQR: p.1052, ASCQR: p.1201]</p>
Support the addition of the following measures to the HOQR Program: <ul style="list-style-type: none"> • Hospital Outpatient Department Volume Data on Selected Outpatient Surgical Procedures • Risk-Standardized Patient-Reported Outcome-Based Performance Measure Following Elective Primary Total Hip Arthroplasty and/or Total Knee Arthroplasty in the HOPD Setting • Excessive Radiation Dose or Inadequate Image Quality for Diagnostic Computed Tomography (CT) in Adults 	4	Partially	<p>CMS will not re-adopt the following measure at this time:</p> <ul style="list-style-type: none"> • Hospital Outpatient Department Volume Data on Selected Outpatient Surgical Procedures <p>CMS will adopt the following two measures (with noted modifications):</p> <ul style="list-style-type: none"> • Risk-Standardized Patient-Reported Outcome-Based Performance Measure Following Elective Primary Total Hip Arthroplasty and/or Total Knee Arthroplasty in the HOPD Setting <ul style="list-style-type: none"> -Modification: Delay mandatory by one year to CY28 reporting period/CY31 payment determination. • Excessive Radiation Dose or Inadequate Image Quality for Diagnostic Computed Tomography (CT) in Adults

			<p>-Modification: Delay mandatory by one year to CY27 reporting period/CY29 payment determination.</p> <p>CMS responded to Leapfrog recommendation saying, “we agree that collaboration with interested parties, attention to advancing health equity, and refining measure specifications are important when identifying useful measures for evaluating the shift in procedures from the inpatient to outpatient setting and will consider these recommendations in future rulemaking.” [p.1080]</p>
Leapfrog Group Recommendation	Page # in Leapfrog Letter	Does the Final Rule Align with Leapfrog Recommendation?	CMS Final Ruling
Recommendations to improve the measurement of, and reporting related to, promoting safety (patient and workforce) in the HOQR Program	4-6	NA	As this was a request for public comment, CMS did not make a final determination. [pp. 1136-1137]
Recommendations to improve the measurement of, and reporting related to, behavioral health in the HOQR Program	6	NA	As this was a request for public comment, CMS did not make a final determination. CMS responded to Leapfrog’s recommendation stating, “we will consider these comments in any future rulemaking related to outpatient behavioral health quality measurement in the Hospital OQR Program.” [p. 1143]
Recommendations to improve the measurement of, and reporting related to, telehealth in the HOQR Program	6-7	NA	As this was a request for public comment, CMS did not make a final determination. CMS responded to Leapfrog’s recommendation stating, “We believe these efforts to continually improve access to the highest quality of care through all modes of care delivery will help inform improvements to achieve our vision of being a high-value American health care system that delivers high-quality, safe, and equitable care for all.” [p.1147]
Support the addition of the following measures to the ASCQR Program: <ul style="list-style-type: none"> • Hospital Outpatient Department Volume Data on Selected Outpatient Surgical Procedures • Risk-Standardized Patient-Reported Outcome-Based Performance Measure Following Elective Primary Total Hip Arthroplasty and/or Total Knee Arthroplasty in the ASC Setting 	7-8	Partially	<p>CMS will adopt the following measure (with noted modification):</p> <ul style="list-style-type: none"> • Risk-Standardized Patient-Reported Outcome-Based Performance Measure Following Elective Primary Total Hip Arthroplasty and/or Total Knee Arthroplasty in the HOPD Setting <ul style="list-style-type: none"> -Modification: Delay mandatory by one year to CY28 reporting period/CY31 payment determination <p>CMS responded to Leapfrog stating, “We agree that refining measure specifications to benefit both patients and providers is important. We will consider these recommendations in future rulemaking.” [p. 1226]</p>

Leapfrog Group Recommendation	Page # in Leapfrog Letter	Does the Final Rule Align with Leapfrog Recommendation?	CMS Final Ruling
Rural Emergency Hospital Quality Reporting (REHQR) Program <i>A program to report the quality of the recently established "Rural Emergency Hospitals"</i>			
Recommendation to begin the REHQR Program with a measure set that is more robust than the four proposed measures, which are: <ul style="list-style-type: none"> ● Abdomen Computed Tomography (CT) - Use of Contrast Material ● Median Time from Emergency Department (ED) Arrival to ED Departure for Discharged ED Patients ● Facility 7-Day Risk-Standardized Hospital Visit Rate After Outpatient Colonoscopy ● Risk-Standardized Hospital Visits Within 7 Days After Hospital Outpatient Surgery 	8-9	No	<p>CMS adopted the four measures as proposed.</p> <p>CMS responded to Leapfrog comments stating the following: "We acknowledge that the initial REHQR Program with the four measures outlined in this rule serves as a starter set for initial program implementation, while also being sensitive to provider burden. We also believe that the selected measures reflect a core area of REH services (ED services) plus selected outpatient services (imaging and surgical) that sufficiently account for small case volume, and note that the set allows most hospitals that have converted to REH status thus far to have had some data publicly reported." [p. 1294]</p>
Recommend against adopting a policy allowing CMS to immediately remove REHQR Program measures	9	Yes	<p>CMS will modify its proposal from immediately removing the measure without going through rulemaking to suspending the measure until removal can be proposed in a future rule.</p> <p>In responding to Leapfrog's comments, CMS stated: "We believe that we should take immediate action to discontinue the use of quality measures when clinical evidence suggests that continued collection of the data may result in harm to patients. Under such circumstances, we may not be able to wait until the annual rulemaking cycle or until we have had the opportunity to obtain input from the public to remove the measure because of the necessity to not encourage potentially harmful practices which may result from the continued collection of the measure. However, we agree with the commenter that seeking public input on the removal of the measure increases the public's voice in decisionmaking and increases transparency. Therefore, we are finalizing a policy in which we would suspend the measure's use until the removal can be accomplished through the standard rulemaking process." [p.1284]</p>
Recommendations to revise the proposed set of measure removal factors	9-10	No	<p>CMS adopted the measure removal factors as proposed. CMS believed the concerns raised by Leapfrog were addressed by other program policies.</p>

			In response to Leapfrog’s comments, CMS stated the following: “When we determine that a measure’s costs outweigh the benefits of retaining that measure, we provide additional details on the costs and benefits that we have considered in our proposal to remove that measure through rulemaking.” [p. 1288]
Support use of eCQMs	10-11	NA	As this was a request for public comment, CMS did not make a final determination. CMS noted Leapfrog’s recommendation stating, “One commenter expressed support for the potential future use of eCQMs in the REHQR Program. This commenter also provided recommendations for CMS’ identification and development of eCQMs, including aligning measures for a given concept (for example, patient safety) across applicable settings (for example, REHs and HOPDs) and focusing on outcome and patient-reported measures. The commenter also suggested that CMS use the recommendations of a recent Office of Inspector General (OIG) report as a guide in the identification and development of eCQMs around medication errors.” [p. 1334]
Support adding the following care coordination measures: <ul style="list-style-type: none"> • Medication Reconciliation Post Discharge measure • Emergency Department Transfer Communication measure 	11	NA	As this was a request for public comment, CMS did not make a final determination. CMS responded to commenters saying, “We thank commenters for their feedback and will take it into consideration as we continue to evaluate all elements of the REHQR Program.” [p.1337]
Do not support a tiered framework for reporting measures where: <ul style="list-style-type: none"> • Tier 1: Measures reported by all REHs • Tier 2: Measures only reported by REHs providing optional services 	12	NA	As this was a request for public comment, CMS did not make a final determination. CMS summarized and noted Leapfrogs recommendation stating, “one commenter did not support a tiered measurement strategy because this could signal to patients that they do not deserve information related to the quality of care provided by REHs in their area.” [p. 1339]
Do not support reporting REHQR Program measure results in the same manner that the ASCQR and HOQR Programs report results	12	NA	CMS has yet to make an announcement.
Recommend stratifying the Median Time for Discharged ED Patients by: <ul style="list-style-type: none"> • Overall rate • Psychiatric/Mental Health Patients 	13	NA	CMS has yet to make an announcement.

Key Terms

- **ADA:** Americans with Disabilities Act prohibits discrimination against individuals with disabilities. The Act affords people with disabilities the same rights and opportunities as everyone else
- **CY:** calendar year (e.g., “CY25” for calendar year 2025)
- **eCQM:** electronic clinical quality measures are measures that use data electronically abstracted from electronic health records
- **ED:** emergency department
- **HAI:** healthcare-associated infection, such as MRSA, C. diff, infection in the blood, infection in the urinary tract, and surgical site infection after colon surgery
- **HOPD:** Hospital Outpatient Department, which is the type of facility being measured in the Hospital Outpatient Quality Reporting (HOQR) Program
- **Measure removal factors:** criteria established by CMS to evaluate measures against for possible removal from a given CMS program
- **Topped out:** a measure assessed to have no substantial room for improvement through an analysis specified by CMS