Medicaid: Where We Are and Where We're Going

September 26, 2024

Where We Are with Rates

- HB 33 (2023 budget bill) set the stage
- Rebasing of direct care rates at 70th percentile of 2022 CPCMU
- Taxes rebased, but not ancillary and support or capital
- 60% of funding* diverted from direct care rates to quality incentive program (added another layer to the pool of funding), 40% stayed in direct care rates
- Private room incentive payments
- Other major changes to quality incentive: additional measures; continuation of 25th percentile cut-off; tightening of CHOP penalty
- Interim method for dealing with CMS 10/1/2023 shutdown of RUGs
- Occupancy: 5% rate penalty plus quality incentive measure
- Next scheduled rebasing not until 2028

ODM Implementation of HB 33

- When ODM released rates in early August 2023, they were as expected except …
- ODM added much less to the quality incentive pool than anticipated, significantly lowering value per quality point
- Average amount left out of quality incentive payments was around $17/day

Quality Incentive Funding: Our View

- Follow the statutory language (5165.26(E)(1)(a)): “sixty per cent of the per diem amount by which the nursing facility's **rate for direct care costs determined for the fiscal year under section 5165.19** of the Revised Code changed as a result of the rebasing conducted under section 5165.36 of the Revised Code.”
- Instead of taking 60% of the amount each facility’s direct care rate increased because of rebasing and multiplying by its Medicaid days, ODM took 60% of the amount the peer group price increased because of rebasing and multiplied by the peer group’s days
- The difference is case-mix: per 5165.19, rate = price * case-mix
- Legislature intentionally adopted this language – the amount of money generated is determined by applying the statute

Quality Incentive Funding: DeWine Administration's View

- Follow the appropriation (LSC Comp Doc): "Altogether, these provisions increase costs to GRF ALI 651525, Medicaid Health Care Services, by a total of **$627,600,000 ($218.9 million state share) in FY 2024 and $747,600,000 ($268.3 million state share) in FY 2025**."
- ODM's interpretation of statutory language results in these numbers
- Legislature and Governor agreed to give SNFs this much money, so statute should be applied to generate that outcome
- Industry interpretation would cost $285 million more per year

End Result of HB 33 as Implemented

- Average rate increase of 17%
- Expanded range of highest to lowest rates
- Average quality incentive payment rose from $21.81 to $34.73
- Improvements in quality incentive methodology mitigated by retaining 25th percentile cutoff
- Private room incentive: national innovation
- Effective rate increase of ~$10/day when averaged across industry
- Penalties for low occupancy
- Barriers to CHOPs that lower per-bed prices

Mandamus Action

- After trying unsuccessfully over a number of months to convince the administration to recalculate the incentive pool, the SNF associations brought a mandamus action in the Ohio Supreme Court in February 2024
- Relief sought would be retroactive to July 1, 2023
- Our petition was dismissed on technical grounds in July, but refiled
- ODM responded on August 27 with another motion for discovery and a briefing schedule to go through 6/19/2025
- On August 30, we opposed the motion and asked the court to proceed to a decision
- No schedule for court to rule on motion or case

Quality Incentive Changes

- Added occupancy measure 7/1/2023
- Added three additional MDS QMs plus staffing 7/1/2024
  - Ability to move, ADLs, antipsychotics: 7.5 points each
  - Catheters, UTIs, pressure ulcers, falls, staffing: 5 points each
  - Occupancy: 3 points
  - Total = 50.5 points
  - Points recalculated semi-annually (July/January)
- Increased number of points resulted in lower value per point
  - Reduced from $1.88 to $1.20
  - Recalculated each July but not January

25th Percentile Cutoff

- Not a change, but more impactful because of additional quality incentive funding
- Applies only to the 47.5 points based on CMS data, not occupancy
- Recalculated in July but not January
- Current cutoff of 28.5 points is more than half (60%) of the applicable points
- Unpredictable: goalpost moves each year

CHOPs and Quality Incentive

- HB 33 reduced time period for loss of quality incentive, but penalty now applies because of tightened definition of CHOP (no more stock sales)
- Penalty is between 6 and 12 months after CHOP completed
- June 30 and December 31 are key dates to get shortest penalty
- Results in lower price per bed

Quality Incentive Data Periods

- 4-quarter average from publicly available CMS data
- Normal periods
  - July 1 rates: 4 quarters of previous CY
  - January 1 rates: first 2 quarters of previous CY, last 2 quarters of CY before that
- CMS measure freeze to implement PDPM adjustments
  - Affects pressure ulcers, ability to move, ADLs, staffing
  - 7/1/2024: used Q4 2022 and Q1-3 2023 for frozen measures
  - 1/1/2025: same for 3 MDS-based measures, staffing Q1-2 2024
  - 7/1/2025: staffing normal, MDS-based measures Q3-4 2024

Other Rate Changes

- Occupancy penalty (<65%)
  - Based on previous year's cost report
  - Bed surrenders
  - Renovation exemption
- Case mix
  - Choice to freeze CMI at 3/31/2023 level or continue using RUG-IV via OSA
  - One-time choice locked in 10/1/2023
  - Choice applies to new operators
  - ODM fact sheet "requiring" OSA completion through 9/30/2025
  - Our recommendation: do it

Ohio Statewide Average Rates

- July 1, 2022 $231.73
- January 1, 2023 $232.07
- July 1, 2023 $271.62
- January 1, 2024 $275.46
- July 1, 2024 $271.78

Private Room Incentive

- Add-on of $30 for category 1 rooms, $20 for category 2 rooms
- CMS approval required *before* add-on paid – this is a novel program
- ODM delayed applying for CMS approval until April 2024, which meant providers applied for private room approval in January and March 2024 before the program existed
- CMS approval dated 6/18/2024, supported program without change
- Statutory 6-month waiting period, so rates become effective 12/18/2024 (not retroactive)
- Application disqualifiers (1-star, SFF, SFF candidate)
- Statutory funding cap of $160 million (annualized) for FY 2025 and beyond
- This is a permanent program, as much as anything about reimbursement is permanent

Current Status

- ~ 1,000 applications submitted
- ODM contacted some applicants for additional information shortly after filing, then went dark awaiting CMS approval
- After approval, ODM adopted rule on private rooms effective 9/9/2024
- ODM currently engaged in preparatory activities:
  - Site visits to 51 buildings to verify meeting private room definition
  - Denials based on disqualifiers
  - Additional information requests: completion of proposed bed surrenders, renovations
- No straight-up approvals yet and no information about timing
- Billing: ODM will establish revenue codes, but nothing yet

Franchise Permit Fee (Bed Tax) FY 2025

- Large increase driven by higher facility revenue from rate increases
- Licensed beds: $16.47
- Certified beds above 200: $9.96
- Letters to be in PNM on or before 10/1/2024

SB 144 Changes: CHOPs

- HB 33 considerably tightened up regulation of CHOPs
  - Definition
  - Transparency
  - Bond requirement
  - Quality incentive penalty
- Unintended consequences of legislative wording
- SB 144 (effective 10/24/2024) included extensive effort to remedy the unintended consequences
- Did not alter intent
- Aside from quality incentive, CHOP rates calculated as before

SB 144 Changes: CON

- CON in Ohio periodically allows movement of beds from over-bedded counties to under-bedded counties
- ODH 2023 bed need announcement: no bed movement anywhere because of 85% county average occupancy requirement
- Application and review periods otherwise would have opened in 2024
- SB 144 alters existing law in several ways, most notably exempting counties from 85% occupancy requirement if bed need is 60 beds or more (Delaware, Franklin, Madison, Medina, Union, Warren)
- Creates new application and review periods beginning in March 2025
- Future bed need announcements will be every 2 years instead of 4

MyCare Ohio Replacement (Next Generation)

- Per CMS direction, existing MyCare demonstration project was originally set to end 12/31/2023
- Ohio received a two-year extension by agreeing to create a replacement program using FIDE-SNPs to start 1/1/2026
- FIDE-SNPs are combined Medicare/Medicaid managed care plans for dual-eligible beneficiaries that are regulated nationally by CMS
- ODM announced that they plan to keep the mandatory Medicaid managed care aspect of MyCare, which is technically a separate program
- Next Gen MyCare to be in existing regions at first, then statewide
- ODM has received applications from MCOs wishing to participate and will make selections before the end of the year (4-5 plans)

Our Goals for MyCare Replacement

- Legislative input into program (statutory authority)
- Ensure beneficiary protections
  - Full choice by beneficiaries (eliminate mandatory Medicaid)
  - No auto or default enrollment
  - Exempt people in DD system
- Ensure provider protections
  - Rates (Medicare as well as Medicaid, all LTSS)
  - Network participation
  - Timely payment
  - Timely authorizations
  - Transportation
- Legislation in lame-duck session (starting ca. November 20)

Where We're Going with Rates

- January 1, 2025
  - CMI adjustment for unfrozen buildings
  - Quality points recalculated (except occupancy and frozen measures)
  - Same value per point and 25th percentile
  - Probably a slight increase in average rate
  - Private room numbers will be known
- July 1, 2025
  - CMI unknown – likely to be PDPM in some form
  - Quality points recalculated (all measures)
  - Value per point and 25th percentile recalculated
  - Probably a slight decrease in average rate
  - Private room incentive will continue
- All of the above assumes a) no mandamus result and b) no change in existing law

Outlook for 2025 Budget

- Executive budget in early stages of preparation now
- Budget to be released early February 2025
- Legislative process to continue from then until late June (or later), with multiple budget versions along the way
- State tax revenues tanked in 2024, leading to reduced estimates for FY 2025
- This will form the baseline for the FY 2026-2027 budget
- Current expectation is little money for program expansion

Our Priority Issues for 2025 Budget

- Outcome of mandamus case
- 25th percentile
- PDPM transition
- Private room funding
- Fair rental value