October 17, 2024

[AMED, EHAB, PNTG]: History Suggests Slight Home Health Medicare Rate Increase, But Risk of a Cut Remains Unappreciated

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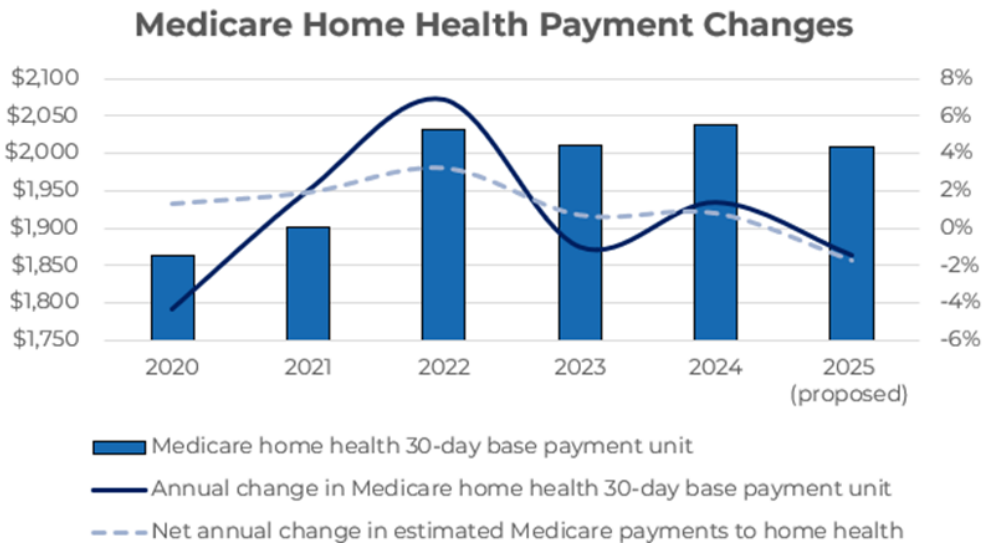
Key Takeaways: Medicare reimbursement history suggests **home health agencies** are in store for a very low single-digit increase YoY in overall Medicare payments and their 30-day base rate when CMS issues its final CY25 payment rule late this month/early next. While this is our base case, we give 30-35% odds CMS takes a harder stance and finalizes an actual cut (as proposed). If the last few years are any guide, this decision won't be the last word, as there is apt to be: 1) an unsuccessful push to curb the final rule in a FY25 spending bill either later this year/early next; and 2) an industry lawsuit challenging CMS on the legality of its policy, which may have a better chance in the wake of last spring's Supreme Court ruling that upended automatic *Chevron* agency deference in regulatory interpretation of unclear statutes.



Source: CMS, Capitol Policy Partners

Recall that, in July, CMS issued its proposed CY25 Medicare home health prospective payment system rule in which it:

- Estimated that the impact from the proposed changes would lower aggregate Medicare spending to home health agencies by 1.7%.
- Proposed to reapply its budget neutrality methodology for calculating a permanent adjustment needed to right-size the 30-day base unit payment. This resulted in a proposed permanent reduction of 4.067% to the base rate, but CMS indicated the final amount would reflect more recent data.
- Proposed to apply the entire 4.067% permanent cut at once, instead of spreading it out over several years, since any delay or phase-in would trigger potentially larger and unnecessary future adjustments to the base rate.

Amedisys Inc (AMED)

Price:	$96.35
52-Week High:	$98.95
52-Week Low:	$89.55

Enhabit Inc. (EHAB)

Price:	$7.22
52-Week High:	$11.74
52-Week Low:	$6.94

Pennant Group Inc (PNTG)

Price:	$35.27
52-Week High:	$37.13
52-Week Low:	$10.46

UnitedHealth Group Incorporated (UNH)

Price:	$562.81
52-Week High:	$608.63
52-Week Low:	$436.38

Aveanna Healthcare Holdings Inc (AVAH)

Price:	$5.43
52-Week High:	$5.95
52-Week Low:	$0.85

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- Proposed **not** to assess in CY25 a separate temporary cut for recovering past overpayments dating back to 2020 to avert hardship on providers. Like past years, CMS cited its "time and manner" authority.
- Proposed to update home health rates by the statutory inflationary formula (home health market basket minus a productivity adjustment), which netted to 2.5%, which we suspect will inch slightly higher in the final rule.

For the upcoming CY25 final rule, we ascribe the highest odds to CMS heeding past rulemaking patterns and provide limited concessions to industry without fully giving in to stakeholder arguments deriding the budget neutral methodology and requests to eliminate the rate cuts. The agency has previously acknowledged the threat of provider hardship as the reason for finalizing a smaller negative permanent adjustment than proposed and letting the rest of the reduction be applied at some future date.

Despite our base case, we think there is greater risk than investors ascribe to CMS finalizing its CY25 proposal as written, but using more recent claims data to calculate the size of the permanent reduction. Unlike prior years, we sense CMS's patience is starting to wear thin towards provider complaints that these cuts are imposing too great a hardship and CMS believes it has afforded enough notice for them to prepare.

In the July proposal, CMS stated that any partial, phased-in, or delayed permanent cut in one year is likely to compound the need for additional future budget neutral-related reductions and trigger a separate cut to recover overpayments, a situation it seems to want to avoid. Furthermore, CMS's opinion of the home health industry appears colored by MedPAC's assumptions about Medicare fee-for-service margins, the generosity of payments relative to costs, and overall viability of the industry.

Least likely is the potential for CMS to agree with the bulk of stakeholders who oppose the cuts and claim the YoY reductions are harming providers, patient access, and quality. Despite the volume and intensity of these letters, we highly doubt CMS will reverse course unless ordered to by Congress or the courts.

On that note, we are highly skeptical of Congress acting after the release of the final CY25 home health payment rule is issued. Despite some bipartisan support for repealing both the permanent and temporary adjustments to the home health base rate, neither the House nor Senate meaningfully advanced outstanding legislation. During CY24 spending bill fight, efforts were made to add language to pause the Medicare home health cuts, but that slimmed-down policy was never included due to cost concerns and its lower priority nature vis-à-vis other healthcare items.

The courts, however, may prove another matter. The home health industry may challenge CMS on the grounds that its CY25 Medicare reimbursement policy is arbitrary, based on an invalid methodology, and fail to heed the Medicare law. There is already a federal lawsuit making this argument and slowly going through the courts. The case had been dismissed earlier this year, in part due to the home health plaintiffs not having exhausted administrative remedies first, but it was refiled in July after the Supreme Court overturned *Chevron* deference to agency interpretation amidst unclear statutory language in *Loper Bright Enterprises v. Raimondo.*

Regardless of whether that lawsuit incorporates the CY25 home health rate policy, the allegations remain the same and could eventually neutralize the CY25 Medicare rate cuts after the fact.

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