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# Making a Difference

Long Term Care Newsletter

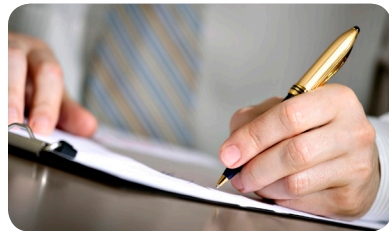
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## \$650,000 Lesson in HIPAA Compliance for Business Associates: Nursing Home Management Company Settles with Government

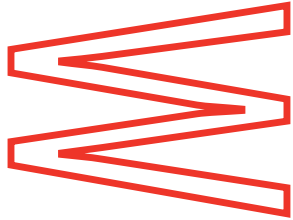


Catholic Health Care Services of the Archdiocese of Philadelphia (CHCS) settled potential violations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Security Rule after the theft of a CHCS mobile device compromised the protected health information (PHI) of 412 nursing home residents. At the time of the breach, CHCS was the sole corporate parent to six nursing homes in the Philadelphia region for the elderly, developmentally disabled individuals, young adults aging out of foster care and individuals living with HIV/AIDS. CHCS is a nonprofit corporation, which provided management services, including information technology services, to nursing homes. CHCS has agreed to pay a \$650,000 settlement and implement an extensive corrective action plan.

The U.S. Department of Health and Human Services Office for Civil Rights (OCR) initiated its investigation on April 17, 2014, after receiving notification that CHCS had experienced a breach of PHI involving the theft of a CHCS-issued employee smartphone. The smartphone was neither encrypted, nor password protected. The information on the smartphone was extensive, and included social security numbers, information regarding diagnosis and treatment, medical procedures, names of family members and legal guardians, and medication information. At the time of the incident, CHCS reportedly had no policies addressing the removal of mobile devices containing PHI from its facility or what to do in the event of a security incident; OCR also determined that CHCS had no risk analysis or risk management plan.

This settlement underscores the importance of maintaining a robust HIPAA compliance program for both business associates and covered entities. Although many of the compliance responsibilities for business associates and covered entities will necessarily be intertwined, entities should remain mindful of their separate and independent obligations under HIPAA. As noted by OCR, the first step in this process is for business associates and covered entities to assess whether they have a documented enterprise-wide risk analysis and corresponding risk management plan in place. To read more about the settlement, please click [here](#).

Please contact any attorney within Baker Donelson's [Privacy and Information Security Group](#) should you have any questions or otherwise wish to discuss any of these new privacy and related initiatives.



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# Making a Difference

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## CMS Issues Final Rule Outlining FY 2017 Medicare Payment Policies and Rates for SNF PPS

Donna K. Thiel, 202.508.3404, [dthiel@bakerdonelson.com](mailto:dthiel@bakerdonelson.com)



On July 29, 2016, the Centers for Medicare & Medicaid Services (CMS) released a final rule outlining FY17 Medicare payment policies and rates for the Skilled Nursing Facility Prospective Payment System (SNF PPS). The rule has been published in the [August 5 Federal Register](#) and is scheduled to take effect October 1.

### Updates to Payment Rates under the SNF Prospective Payment System (PPS)

CMS projects that aggregate payments to SNFs will increase in FY 2017 by \$920 million, or 2.4 percent, from payments in FY16. This estimated increase is attributable to a 2.7 percent market basket increase reduced by 0.3 percentage points, in accordance with the multifactor productivity adjustment required by law.

### Changes to the SNF Quality Reporting Program (QRP)

The Improving Medicare Post-Acute Care Transformation Act of 2014 (the IMPACT Act) added Section 1899B to the Social Security Act that requires SNFs to report data on measures that satisfy measure domains specified in the Act. This final rule adopts three measures to meet the resource use and other measure domains and one measure to satisfy the domain of medication reconciliation.

SNFs that fail to submit the required quality data to CMS will be subject to a two percentage point reduction to the annual market basket percentage update factor for fiscal years beginning with FY18.

The quality measures finalized for the FY18 payment determination and subsequent years to meet the resource use and other measure domain are as follows:

- Medicare Spending Per Beneficiary – Post-Acute Care (PAC) SNF QRP
- Discharge to Community – PAC SNF QRP
- Potentially Preventable 30-Day Post-Discharge Readmission – SNF QRP.

The quality measure finalized for the FY20 payment determination and subsequent years to meet the medication reconciliation domain is:

- Drug Regimen Review Conducted with Follow-Up for Identified Issues

Policies and procedures on reporting timelines, preview period, review and correction of assessment-based and claims-based quality measure data, and the provision of confidential feedback reports to SNFs are also included.



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## CMS Issues Final Rule Outlining FY 2017 Medicare Payment Policies and Rates for SNF PPS, *continued*

### SNF Value-Based Purchasing (VBP) Program

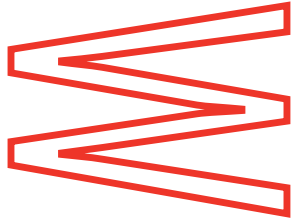
Section 215 of the Protecting Access to Medicare Act of 2014 (PAMA) authorizes the establishment of a SNF VBP Program beginning with FY19 under which value-based incentive payments are made to SNFs based on performance.

This final rule specifies the SNF 30-Day Potentially Preventable Readmission Measure, (SNFPPR), as the all-cause, all-condition risk-adjusted potentially preventable hospital readmission measure as required by law. The SNFPPR assesses the facility-level risk-standardized rate of unplanned, potentially preventable hospital readmissions for SNF patients within 30 days of discharge from a prior admission to a hospital paid under the Inpatient Prospective Payment System, a critical access hospital or a psychiatric hospital.

#### Other Policies:

In this final rule, CMS has also finalized additional policies related to the SNF VBP Program including:

- Establishing performance standards;
- Establishing baseline and performance periods;
- Adopting a performance scoring methodology; and
- Providing confidential feedback reports to SNFs.



## Should Your Facility Try Telemedicine and Navigating Reimbursement for Telemedicine

[Christy T. Crider](#), 615.726.5608, [ccrider@bakerdonelson.com](mailto:ccrider@bakerdonelson.com)

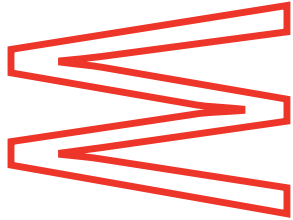
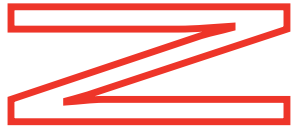
[Anthea R. Daniels](#), 615.726.5551, [adaniels@bakerdonelson.com](mailto:adaniels@bakerdonelson.com)

Long term care (LTC) is a highly competitive market with razor-thin margins. LTC providers are constantly on the lookout for how to deliver greater services to residents for less cost. New sources of revenue are essential.

While telemedicine is not new, telemedicine for LTC centers is more accessible than ever before. In this two-part article series featured in McKnight's, we will discuss what telemedicine is, why should you consider it, how to make it work for your LTC center and how to get paid for providing telehealth services.

Click [here](#) to read, "Should your facility try telemedicine?"

Click [here](#) to read, "Navigating reimbursement for telemedicine."



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## 2016 Baker Donelson Long Term Care Webinar Series

To receive information about the webinar series or to register, email [rsvp@bakerdonelson.com](mailto:rsvp@bakerdonelson.com). Click [here](#) to view recordings of our previous long term care webinars.

- 8.11.16:** Audits and Appeals in the LTC Space  
presented by [Donna K. Thiel](#) and [Tracy E. Weir](#)
- 9.13.16:** What Every Provider Needs to Know About Granny Cams  
presented by [Christy T. Crider](#) and [Charles C. McLaurin](#)
- 10.11.16:** Buying and Selling Your HUD-Financed Facility  
presented by [Andrea Barach](#)
- 11.15.16:** Race, Sexual Orientation and Social Media Discussions in the Workplace  
presented by [Zachary B. Busey](#), CIPP/US and [Gina Ginn Greenwood](#)
- 12.13.16:** Are You Protecting Your QA Documents?  
presented by [Christy T. Crider](#) and [Caldwell G. Collins](#)

## Shareholder Spotlight: Christy T. Crider

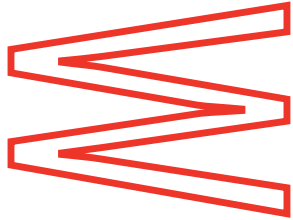


[Christy T. Crider](#), a shareholder in Baker Donelson’s Nashville office, is the head of the Firm’s Long Term Care Group, as well as the chair of the Firm’s Women’s Initiative. Christy concentrates her practice in long term care, behavioral health companies, managing the litigation of numerous long term care facilities around the country, medical malpractice litigation and many areas of tort and commercial litigation. She works with health care companies on quality assurance, corporate compliance, general business advice and litigation avoidance.



### If you weren’t a lawyer, what would you be doing?

I’d be playing Christine in Phantom of the Opera on Broadway. Or I’d be a blues singer with an entire jamming choir backing me up. Or I’d live on a farm and keep bees, raise chickens and raise my own food with six kids. Or I’d be an Americana singer-songwriter in Nashville and stay up past 10:00 p.m. (my current bedtime) so I could play in the round at the Bluebird Café. Or I’d be a geriatric physician pioneering for those at the end of their lives to live them as they pleased, even if they have dementia. I love my life’s work, but there are dozens of careers that interest me.



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## Shareholder Spotlight: Christy T. Crider, *continued*



### What is the best piece of advice you have ever been given?

If you hit the target every time, you're setting your goals too small. Failure is integral to growth. It's OK to make mistakes. Oh yeah, and wear sunscreen every day.



### What do you like to do in your free time?

Take trips with each of my two children individually. Make music with people I enjoy. Lay in warm sand with a cold drink and good music. Cook with a nice glass of red wine. Listen to live music with the people I love most.



### If you won the lottery, what would you do?

Take one year off and live in 12 different interesting cities around the world for one month each for one year. Then come back to my amazing life and keep doing the same thing, except do it with a driver, a cook, a housekeeper, a yard guy, a masseuse and a shopper.



### What's your favorite place in the world?

Beside a fireplace and a Christmas tree with one child on each side of me. And Rosemary Beach, Florida, in the early fall at dusk. And the Ryman. Don't make me choose.



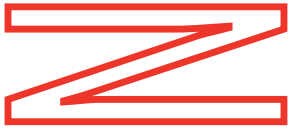
### What's the best business book you've ever read?

*Lean In: Women, Work and the Will to Lead* by Sheryl Sandberg.



### If we looked at your iTunes account right now, what would be at the top of your "most played" list?

Jason Isbell, Lucinda Williams, Ryan Bingham, Sturgill Simpson, Chris Stapleton, The SteelDrivers, Flo Rida, John Lee Hooker, Willie Nelson, Hayes Carll, Ray Charles, Bruno Mars, Eva Cassidy, John Prine, Luciano Pavarotti, Robert Earl Keen. I'm embarrassed my percentage of women is so low. I'm going to work on that.



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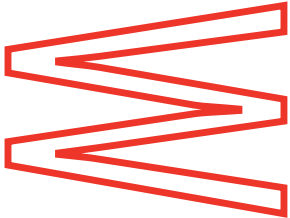
# In the Trenches

Baker Donelson welcomes [Daniel Sternthal](#) as a shareholder in the Firm’s Houston office. He represents clients representing health care providers across the continuum of care, including individual and group medical practices, hospitals, long term care facilities and ancillary service providers on issues relating to regulatory, operational and corporate matters. Daniel is board certified in health law by the Texas Board of Legal Specialization. To learn more about Daniel, click [here](#) to read his feature in Law360.

Are you going to the [2016 NIC Fall Conference](#) in Washington, D.C.? If so, drop a line to one of the Baker Donelson attorneys attending – [Andrea Barach](#), [Ken Beckman](#), [Richard Faulkner](#), [Tim Lupinacci](#), [Amy Mahone](#), [Mary O’Kelley](#) and [Elizabeth Sauer](#). We enjoy catching up with old friends and seeing new faces in the seniors housing and care industry.

[James H. Levine](#) authored the article, “[HUD Proposes Expanding Indebtedness Eligible for Refinancing with FHA-Insured Loans](#).”

[Michaela D. Poizner](#) discusses Quality of Care Reporting in an interview with [Wolters Kluwer](#).



\* This schedule is subject to change.

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