Q: I recently saw an update on the Jimmo v. Burwell settlement [Click here]. How will this settlement affect us in light of all the changes with Alternate Payment Models (APMs)?

A: Basically, AHCA said that you should approach the question from a patient-centered and not a setting-specific perspective. Then, as long as the resident is getting the “skilled” nursing of therapy or nursing services they need to maintain function or prevent decline, the ACO, bundle holder, etc. that is responsible for the post-discharge outcomes is typically granted some flexibility in determining how that outcome is achieved, including where the services are furnished and for how long (for example, BPCI permits 3-day hospital stay waivers for SNF admissions).

From a SNF perspective, if the ACO/bundle holder is requesting a transition to another provider for some level of follow-up care, then there is likely nominal impact on what a SNF can do because the patient’s needs are apparently being addressed by the downstream provider. However, the pressure point will likely be if a decision is made that further restoration of function or health is not achievable in the SNF (or elsewhere) and the ACO/bundle holder plan is for the patient to transition to long term care in the nursing facility, but in the opinion of the physician, SNF staff or patient/family, the patient still requires “skilled” nursing or therapy to maintain their health/function. Technically, and verified by the recent court decision, the beneficiary would be possibly eligible for up to their entire 100-day SNF benefit period if the documentation supports the need for “skilled maintenance” care. There are some similar arguments for Part B therapy as well if the beneficiary is not eligible for Part A or has exhausted Part A benefits. This court decision also applies to Medicare Advantage plans who often put pressures on SNFs to discontinue covered care due to lack of improvement. This is a concern AHCA is monitoring and sharing with the Jimmo advocates.