Part B Insider (Multispecialty) Coding Alert

Interoperability: Data-Sharing Issues Prompt Coordinated Proposals

CoPs may be revised to accommodate the health IT proposals.

CMS has been on a health IT rampage this past year - updating sites, striking down outdated policies, and even renaming its technical components to Promoting Interoperability (PI). It seems those digital turnarounds were just the tip of the policy iceberg.

Context: On Feb. 22, CMS and HHS Office of the National Coordinator for Health Information Technology (ONC) released proposed rules, aiming to revamp information exchange and health IT. The proposals, published in the Federal Register on March 4, contain much crossover material. However, ONC's policies are more generalized and concern 21st Century Cures Act initiatives while CMS troubleshoots Medicare's IT hotspots in its rule.

"For far too long, electronic health information has been stuck in silos and inaccessible for healthcare consumers," says CMS Administrator **Seema Verma** in a release on the CMS rule. "Our proposals help break down existing barriers to important data exchange needed to empower patients by giving them access to their health data."

Check Out CMS's Patient-Centered Policy Ideas

Clunky health exchanges that deliver subpar patient data results have been a hallmark of past federal IT programs. The agency wants to change that by giving patients more control of their data. "We believe patients should have the ability to move from health plan to health plan, provider to provider, and have both their clinical and administrative information travel with them throughout their journey," stresses the proposed rule.

Here are a few important takeaways from the CMS proposed rule:

Payer-based APIs beyond Blue Button 2.0: Last year, CMS reupped an old application programming interface (API) under the guise of the MyHealthEData initiative, imbibing it with updated tools and renaming it Blue Button 2.0. Now, CMS proposes requiring health plans and payers like "Medicare Advantage (MA) organizations, state Medicaid and [Children's Health Insurance Program] CHIP FFS programs, Medicaid managed care plans, CHIP managed care entities, and [quality health plans] QHPs" to engage in federally-facilitated exchanges (FFEs), indicates the rule.

Under the proposals, covered entities (CEs) would "implement openly published APIs in which patient claim and other health information will be made available to patients through third-party applications," explains attorney **Jennifer Siegel** of King & Spalding LLP in its Health Headlines blog.

The payers' APIs would also include provider directories and put care coordination, including transition of care, first with "trusted exchange networks," according to the CMS fact sheet on the proposal. Information from past providers to diagnoses to procedures and tests would also be available through open sharing, said the release.

"CMS proposes requiring compliance by January 1, 2020, and July 1, 2020, for Medicare Advantage plans and QHP issuers in FFEs, and Medicaid FFS, Medicaid managed care plans and CHIP managed care entities, respectively," Siegel counsels.

Policies to punish information blockers: In the future, providers may find themselves in trouble for refusing to share data, the rule suggests. In fact, answers to three attestation statements may determine clinicians' information-blocking status; moreover, their responses may be publicly posted for beneficiaries, indicates CMS.

"Other CMS proposals include measures addressing dual-eligibility data syncing, the provision of provider contact information, and new provider requirements relating to discharge, admission and transfer notifications," notes an alert from national law firm **Ropes & Gray LLP**.

Interoperability requirements in CoPs: CMS proposes to add another layer of patient notification and engagement to data exchange, but now it plans to integrate the requirement into hospitals' and critical access hospitals' (CAHs) Conditions of Participations (CoPs) for federal healthcare programs, the fact sheet says. The hospitals would be required "to send electronic notifications when a patient is admitted, discharged or transferred," according to a CMS fact sheet.

Not everyone is excited about this CoP addition. "We cannot support including electronic event notification as a condition of participation for Medicare and Medicaid," warns **Ashley Thompson,** senior vice president for public policy analysis and development for the American Hospital Association (AHA) in a statement on the rule.

Thompson adds, "We believe that CMS already has better levers to ensure the exchange of appropriate health information for patients. We recommend the agency focus on building this exchange infrastructure rather than layering additional requirements on hospitals."

Models and RFIs: CMS has been payment-model happy lately, and the proposed rule suggests interoperability-specific models may be on the horizon. "CMS plans to promote interoperability across the healthcare spectrum through model testing that focuses on using emerging standards, models leveraging non-traditional data and technology-enabled patient engagement platforms," mentions the fact sheet. The agency doesn't list specifics, however, and is requesting the public's input on design and testing.

CMS will accept stakeholder feedback through May 3, 2019. The two requests for information (RFI) include:

- Ideas to encourage adoption of health IT across healthcare platforms, where such technology is not as prevalent like long-term and post-acute care.
- Input on protecting patients' identities while »promoting health IT and data sharing.

Resource: Review the CMS proposed rule in the Federal Register at www.federalregister.gov/documents/2019/03/04/2019-02200/medicare-and-medicaid-programs-patient-protection-and-affordable-care-act-interoperability-and.