

Part B Insider (Multispecialty) Coding Alert

Policy Update: Final Rule Outlines Interoperability Changes

Prepare now for the staggered rollout.

With COVID-19 dominating the healthcare news, the latest Medicare rule on interoperability may have slipped past you. Even though the feds plan to slowly enforce changes over time, you may want to get ahead of the curve. Read on for the details.

Context: The Centers for Medicare & Medicaid Services (CMS) in coordination with the HHS Office of the National Coordinator for Health Information Technology (ONC) issued intersecting rules to circumvent patient data blocking and improve health information exchanges (HIEs). The rules were published in the Federal Register on May 1.

"Unfortunately, data silos continue to fragment care, burden patients, and providers, and drive up costs through repeat tests," acknowledges **Seema Verma**, CMS administrator in a release. "These rules begin a new chapter by requiring insurance plans to share health data with their patients in a format suitable for their phones or other device of their choice."

Verma adds, "We are holding payers to a higher standard while protecting patient privacy through secure access to their health information. Patients can expect improved quality and better outcomes at a lower cost."



Know These 5 Changes on the Horizon

The new data policies may be helpful in the end, but could prove challenging to implement - especially with COVID-19's impact on the rollout.

Take a look at five CMS updates from the agency's "Interoperability and Patient Access final rule" that may impact your practice in the coming months and years:

1. Expect to be called out on data blocking. CMS plans to harness Promoting Interoperability programs' attestations to peg information blocking offenders. Plus, the agency intends to publicly release the data blocking stats from reporting clinicians, hospitals, and critical access hospitals (CAHs) - so that beneficiaries can factor that into their provider choices.

"A CMS website and the Physician Compare website will display any 'no' responses by eligible providers and thereby implicitly indicate which providers have attested that they are in compliance with the information blocking requirements," explain attorneys **Whitney Snow**, **Nesrin Garan Tift**, and **Elizabeth S. Warren** with Bass, Berry & Sims PLC in online analysis.

2. See new API requirements. Payers - Medicare Advantage organizations, fee-for-service (FFS) programs, Medicaid managed care plans, CHIP FFS programs, CHIP managed care entities, and Qualified Health Plan issuers on the federally-facilitated exchanges - must now offer patients a secure, standards-based application programming interface (API). In coordination with ONC, CMS will require payers to utilize HL7 FHIR Release 4.0.1 for APIs.

"Modern computing standards and APIs ... give patients access to their health information and give them the ability to use the tools they want to shop for and coordinate their own care on their smartphones," notes **Don Rucker, MD**, ONC national coordinator in a release.

3. Presume provider data will be in an API directory. The agency mandates that payers include a comprehensive

provider database in their APIs for public viewing. This easy access to providers' information will motivate third-party developers to create more innovative and intuitive apps for patients - and for clinicians to connect with other specialists when coordinating care, CMS maintains.

4. Have your contact information handy online. Soon, "providers who don't list or update their digital contact information in the National Plan and Provider Enumeration System (NPPES)" will be publicly reported, CMS insists.

5. Tack on another Medicare CoP. CMS will add a new Medicare Condition of Participation (CoP) for hospitals, including CAHs and psychiatric hospitals, related to sending "electronic patient event notifications of a patient's admission, discharge, and/or transfer to another healthcare facility or to another community provider or practitioner," agency guidance says.

"Using the COPs as the enforcement vehicle for this requirement places a hospital's participation in Medicare at risk in the event of noncompliance," argue Snow, Tift, and Warren.

Coincidentally, commenters on the "enforcement structure" found the proposals "draconian" since "a single minor infraction would be judged in light of the nature and extent of the hospital's noncompliance and the risk it poses to patient health and safety," the attorneys continue. CMS disagreed with commenters and pushed the policy through anyway.

Interesting: According to CMS, the requirements don't overlap with HIPAA, but commenters argued to the contrary on several of the measures, the rule shows. In addition, the rule asserts that the feds will accept "reasonable" attempts at compliance with the terms of the mandates - without defining "reasonable" or outlining enforcement for "unreasonable."

Timeline: "The Interoperability rule was originally scheduled to take effect on June 30, 2020, with varying compliance dates based on the applicable requirements," Snow, Tift, and Warren point out. "However, in light of the COVID-19 public health emergency, CMS has announced it will delay enforcement or exercise enforcement discretion for an additional six months."

Note: Review the final rule at <https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-05050.pdf> and review CMS guidance on the policies at www.cms.gov/Regulations-and-Guidance/Guidance/Interoperability/index.