Health Information Compliance Alert

Policy: CMS Reworks MU as 'Promoting Interoperability'

Practices will face penalties for not sharing data with patients, CMS says.

Rebrands, reversals, and deregulation mark 2018's federal healthcare landscape. If your head is spinning from the changes CMS has unloaded so far this year, you're not alone. And the overhauls and curtailments keep coming, recent Medicare change-ups suggest.

Background: In 2011, the Medicare and Medicaid EHR Incentive programs were introduced to encourage medical professionals to "adopt, implement, upgrade (AIU), and demonstrate the meaningful use of certified EHR technology (CEHRT)" in order to better serve patients, stressed CMS in a release. Over the years, Meaningful Use (MU), as the programs came to be known, chugged along with mixed reviews, both improving the delivery of care and health information but also hampering it.

However, recent programs like MACRA's Quality Payment Program (QPP), Patients Over Paperwork, and Meaningful Measures aimed to put patients' needs before unwieldy protocols while reducing providers' hefty administrative burdens in the process. All of these factors - compounded with the agency's MyHealthEData initiative announced in February and federal talk that federally mandated EHR changes were coming - produced "Promoting Interoperability" or PI, which is the reworked MU. PI is outlined in the 2019 Medicare Hospital Inpatient Prospective Payment System (IPPS) and Long Term Acute Care Hospital (LTCH) Prospective Payment System proposed rule available in the Federal Register.

"Today's proposed rule demonstrates our commitment to patient access to high quality care while removing outdated and redundant regulations on providers," said CMS Administrator **Seema Verma** in a release on Promoting Interoperability. "We envision a system that rewards value over volume and where patients reap the benefits through more choices and better health outcomes."

Prepare for These EHR-Policy Modifications

Hints from the agency and other federal health programs over the last year suggest the name change and policies to go with it are not unexpected. "We are renaming the program 'Promoting Interoperability,' to reflect the program's new emphasis on providing healthcare information to patients in an electronic format and sharing information electronically among providers," explained Verma at Health Datapalooza in Washington, D.C., last month.

In addition to Promoting Interoperability, CMS also points out other technical components that it plans to revise in 2019 and beyond. These include:

- **Electronic Clinical Quality Measures (eCQMs) 2019.** According to the proposal, eligible hospitals and critical access hospitals (CAHs) will need to report only four "self-selected" eCQMs of the 16 options for one quarter of CY 2019. CMS advises that the submission period be the first two months of the new year and end on Feb. 29, 2020, for 2019 measures.
- **eCQMs 2020.** "We propose to remove eight of the 16 eCQMs consistent with CMS's commitment to producing a smaller set of more meaningful measures and in alignment with the Hospital IQR Program," the agency fact sheet on the proposed rule states.
- **Certified EHR Technology (CEHRT).** All eligible hospitals and CAHs must utilize 2015 Editions of CEHRT prior to reporting their 2019 data.
- **Attestation timeline.** For both 2019 and 2020, both Medicare and Medicaid hospitals under Promoting Interoperability will need to attest for only 90 days of the calendar year.

Measures management: The MyHealthEData initiative release suggested that CMS would scale back quality measures

to assist Medicare providers with reporting, and that is exactly what the IPPS proposed rule language suggests. A revamped scoring methodology and two new measures, "Query of the PDMP and Verify Opioid Treatment Agreement related to e-prescribing of opioids (Schedule II controlled substances)" are included in the proposals, the agency guidance notes. Cuts will be made to measures that don't support the electronic exchange of health information between providers and patients, the fact sheet also mentioned.

"The new scoring mechanism would allow hospitals to receive points under four objectives: e-prescribing; health information exchange; provider to patient exchange; and public health and clinical data exchange," explains law firm **Hall Render** in a blog post. "The goal is to introduce a more flexible, performance-based approach to determining whether a hospital has met the requirements to avoid a payment penalty under Medicare."

Penalties: With the Blue Button 2.0 release a few months back, CMS discussed punishing providers who don't share health records with their patients. The new proposals hit on that topic, too. "To avoid a payment reduction, providers will still have to give patients electronic access to their health information further empowering consumers and ensuring that the data follows the patient," Verma cautioned. "The proposed rule also increases privacy protections by requiring that all hospitals first protect the security of patient records."

RFI: In the rule, CMS put out a Request for Information (RFI) for input on how to support "positive solutions to better achieve interoperability or the sharing of healthcare data between providers." However, the agency will not address the public commentary in the final rule, "but rather will actively consider all input in developing future regulatory proposals or future sub-regulatory guidance," says the CMS fact sheet.

Advancing Care Information Gets a New Title, Too

The Merit-Based Incentive Payment System (MIPS) technology component, Advancing Care Information (ACI), which replaced Meaningful Use for Part B providers in 2017, will also get a name change, according to MLN Connects. "The MIPS Advancing Care Information performance category" will become "the Promoting Interoperability performance category for MIPS eligible clinicians."

Important: Though MU and ACI will now be called Promoting Interoperability, the two programs will remain separate and do not "merge or combine the EHR Incentive Programs and MIPS," MLN Connects says.

Interested parties may post comments on the rule on the Federal Register website. "To be assured consideration, comments must be received no later than 5 p.m. on June 25, 2018," according to the guidance.

Note: Review the IPPS proposal with information about Promoting Interoperability at www.gpo.gov/fdsys/pkg/FR-2018-05-07/pdf/2018-08705.pdf and the fact sheet at www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2018-Fact-sheets-items/2018-04-24.html.