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Medicare Shared Savings Program Proposed Rule

OVERVIEW

On December 1st, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule for the Medicare Shared Savings Program (MSSP). CMS will accept comments on the proposed rule until February 6, 2015. The proposed rule can be found here.

The proposed rule does not make changes to the quality measurement component of the MSSP. Those changes were addressed in the Medicare Physician Fee Schedule, which was finalized on October 31st.

EXTENSION OF ONE-SIDED RISK OPTION

CMS is proposing to give ACOs participating in Track 1, the one-sided model, the option of a longer time to transition to two-sided performance risk. Previously, ACOs continuing to participate in MSSP would transition into Track 2 after one performance period (three years). Under the proposed rule, CMS would permit ACOs to participate in one additional agreement period under Track 1, but at a lower sharing rate than the previous agreement period to encourage progression along the performance risk continuum. This policy would be available to ACOs that have met the quality performance standard in at least one of the first two years and have not generated losses that exceed the negative minimum savings rate. ACOs that are already participating in Track 2 would not be affected.

CHANGES TO TWO-SIDED RISK MODEL

CMS is proposing to modify the two-sided risk model (Track 2) to increase its attractiveness.

First, it will make the minimum savings and loss rates variable rather than the current flat 2 percent. The minimum savings rate is the level of savings that an ACO must achieve before it is able to share in any savings. The minimum loss rate is the level of savings than an ACO must achieve before it is exposed to any shared losses. Under the proposed rule, the minimum savings and loss rates would range from 2 percent to 3.9 percent depending on number of assigned beneficiaries.

CMS is also seeking comment on what other elements would be necessary for organizations to consider taking on greater financial risk, which may include waiving certain fee-for-service (FFS) payment and regulations related to qualifying hospital stays for skilled nursing facility admission, telehealth, qualifications for home health services, and qualifications for post-acute referrals.

DEVELOPMENT OF AN ADDITIONAL TWO-SIDED MODEL

CMS is proposing to create a new two-sided risk model, Track 3, which integrates some elements from the Pioneer ACO model. Track 3 would feature higher rates of shared savings and prospective attribution of beneficiaries.

BENEFICIARY ASSIGNMENT

Currently, beneficiaries are assigned to ACOs in two steps based on the plurality of primary care services. Step 1 uses primary care physicians, and Step 2 uses specialist physicians, nurse practitioners, physician assistants, and clinical nurse specialists.

CMS is proposing to:

- Include in Step 1 primary care services provided by nurse practitioners, physician assistants, and clinical nurse specialists; and
- Remove from Step 2 certain specialty types.

BENCHMARKS

CMS is seeking comment on a number of alternative methodologies for establishing, updating, and resetting ACO financial benchmarks. Specifically, CMS is seeking feedback on the following proposals:

- Using regional FFS expenditures instead of national FFS expenditures in establishing and updating the benchmark;
- Transitioning to using regional FFS cost data to make ACO benchmarks more independent of the ACO's past performance and more dependent on the ACO's success in being more cost efficient relative to its local market; and
- Resetting the ACO's benchmark in subsequent agreement periods, which may include equally weighting the three benchmark years and/or accounting for shared savings payments received by an ACO.

CMS is also seeking comments on related changes to support these options, including changes to risk adjustment normalization and coding intensity adjustments, comparison group definitions, the timeline for transition to regional FFS costs, and other adjustments.

DATA SHARING

Currently, CMS shares claims data with ACOs only after ACOs have notified beneficiaries and provided them an opportunity to decline to have their data shared with the ACO. CMS is proposing to streamline the process for ACOs to access beneficiary claims data. Specifically, ACO participants would provide written notification at the point of care that beneficiaries can limit their data sharing by calling 1-800-Medicare. Beneficiaries would express their data sharing preferences directly to CMS rather than passing the information through the ACO.