

October 16, 2017

Submitted via the Federal eRulemaking Portal: <http://www.regulations.gov>

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue SW, Room 445-G
Washington, DC 20201

Re: Medicare Program; Cancellation of Advancing Care Coordination through Episode Payment and Cardiac Rehabilitation Incentive Payment Models; Changes to Comprehensive Care for Joint Replacement Payment Model [CMS-5524-P]

Dear Administrator Verma:

Vizient, Inc., respectfully submits our comments on the Centers for Medicare and Medicaid Services' (CMS) proposed rule regarding "Cancellation of Advancing Care Coordination through Episode Payment and Cardiac Rehabilitation Incentive Payment Models; Changes to Comprehensive Care for Joint Replacement Payment Model" as published on August 17, 2017 in the Federal Register (Vol. 82, No. 158).

Background

Vizient, Inc., is the largest member-driven health care performance improvement company in the country. At Vizient, our purpose is to ensure our members deliver exceptional, cost-effective care. Vizient is member-driven and member-minded, working tirelessly to amplify every organization's impact by optimizing every interaction along the continuum of care.

Vizient provides innovative data-driven solutions, expertise and collaborative opportunities that lead to improved patient outcomes and lower costs. Vizient serves a diverse membership and customer base including academic medical centers, pediatric facilities, community hospitals, integrated health delivery networks and non-acute health care providers. Vizient is headquartered in Irving, TX with locations in Chicago, Washington, D.C., and other cities across the country.

In our comments, we respond to various issues raised in the proposed rule, and offer recommendations to constructively improve the final rule. Our comments reflect the views of our organization, as well as input received from our hospital members from across the nation. We thank you for the opportunity to share our views on CMS's proposal.

CMS established three new models for acute myocardial infarction (AMI), coronary artery bypass graft (CABG), and surgical hip/femur fracture treatment (SHFFT) episodes of care, which are collectively called the Episode Payment Models (EPMs), created a Cardiac Rehabilitation incentive payment model (CR incentive payment model), and revised several existing provisions for the Comprehensive Care for Joint Replacement (CJR) model, in a final rule titled "Advancing Care Coordination Through Episode Payment Models (EPMs); Cardiac Rehabilitation Incentive Payment Model; and Changes to the Comprehensive Care for Joint

Replacement Model” published in the Jan. 3, 2017 Federal Register ([82 FR 180](#)). **Vizient submitted a public [comment letter](#) on the proposed rule offering recommendations to constructively improve the final rule on October 3, 2016.**

The effective date for most of the provisions of the EPM final rule was Feb. 18, 2017, and in the EPM final rule, CMS specified an effective date of July 1, 2017 for certain CJR model regulatory changes intended to align with a July 1, 2017 applicability (start) date for the EPMs and CR incentive payment model. On January 20, 2017, the Assistant to the President and Chief of Staff issued a memorandum titled “Regulatory Freeze Pending Review” that instructed Federal agencies to temporarily postpone the effective date for 60 days from the date of the memorandum for regulations that had been published in the Federal Register but had not taken effect, for purposes of reviewing the rules and considering potentially proposing further notice-and-comment rulemaking. Accordingly, on Feb. 17, 2017, CMS issued a final rule in the Federal Register ([82 FR 10961](#)) to delay until March 21, 2017 the effective date of any provisions of the EPM final rule that were previously specified to become effective on Feb.18, 2017.

CMS subsequently issued an interim final rule with comment (IFC) period in the Federal Register on March 21, 2017 ([82 FR 14464](#)). The March 21, 2017 IFC further delayed the effective date of the provisions that were to take effect March 21, 2017 until May 20, 2017, further delayed the applicability date of the EPMs and CR incentive payment model provisions until Oct. 1, 2017, and further delayed the effective date of the conforming CJR model changes until Oct. 1, 2017. In the March 21, 2017 IFC, CMS also solicited public comment on further delaying the applicability date for the EPMs and CR incentive payment provisions, as well as the effective date for the conforming changes to the CJR model from Oct. 1, 2017 until Jan. 1, 2018 to allow for additional notice-and-comment rulemaking. **Vizient submitted a public [comment letter](#) on the interim final rule with comment period (IFC) on April 19, 2017.**

Based on the public comments received in response to the March 21, 2017 IFC, CMS published a final rule on May 19, 2017 ([82 FR 22895](#)) to finalize a Jan. 1, 2018 applicability date for the EPMs and CR incentive payment provisions, as well as to finalize a Jan. 1, 2018 effective date for the conforming changes to the CJR model. Additional changes to the CJR model, in accordance with the March 21, 2017 IFC, took effect May 20, 2017.

Recommendations

CMS is proposing to cancel the Episode Payment Models (EPMs) and the Cardiac Rehabilitation (CR) incentive payment model. Vizient appreciates the agency’s acknowledgement in the proposed rule that “requiring hospitals to participate in additional episode payment models at this time is not in the best interest of the agency or the affected providers.” In this proposed rule, CMS acknowledges that many providers are currently engaged in voluntary initiatives with CMS, and the agency expects to continue to offer opportunities for providers to participate in voluntary initiatives, including episode-based payment models. Many of our members participate in current voluntary payment and service delivery model demonstrations conducted by CMS and the CMS Innovation Center – and all are deeply committed to the pursuit of a better, more patient-centric health care delivery system. Vizient members generally agree that voluntary participation in efforts to further incentivize higher value care is the best approach. **However, Vizient believes that as Medicare programs increasingly shift to outcome-based performance measures, it is vital that the regulatory environment become more flexible to allow for participant success.**

CMS stated in the March 21, 2017 IFC that the additional 3-month delay is necessary, and specifically noted that it would “ensure that the agency has adequate time to undertake notice and comment rulemaking to modify the policy if modifications are warranted, and to ensure that in such a case participants have a clear understanding of the governing rules and are **not**

required to take needless compliance steps” (emphasis added, [82 FR 14464](#).)” This proposed rule to cancel the EPMs entirely was released on August 17, 2017, and many participants have already taken all of the compliance for a July 1, 2017 original start date for the models. In our comment letter submitted to CMS on the IFC, we urged the agency to keep in mind the significant investments of time, effort and finances already made by providers as they consider making modifications to the policy via additional notice and comment rulemaking.

CMS stated in the May 19, 2017 final delay rule that the agency “**disagree[d] with commenters who suggested that CMS withdraw these models altogether and/or delay them indefinitely**” (emphasis added, [82 FR 22897](#)). Providers that predicated their implementation strategy on statements from the agency have risked misdirecting their invaluable and in many cases, limited, resources. CMS reiterated that as previously stated in the Jan. 3, 2017 EPM final rule, “we believe these models will further our goals of improving the efficiency and quality of care for Medicare beneficiaries receiving care for these common clinical conditions and procedures” ([82 FR 22897](#)). As we previously commented, Vizient and its hospitals strongly support CMS’s push for adoption of alternative payment models and are working to help ensure these complex models work for providers and patients. However, if the agency does not, in turn, support hospitals by recognizing the significant investments of time, effort and finances that these models require, realizing success will be increasingly difficult for both our members and the agency.

CMS notes in this proposed rule that the agency may, at a later date, decide to test these or similar models on a voluntary basis – and would not expect to implement them via rulemaking but rather by using methods of soliciting applications and securing participation agreements consistent with how the agency has implemented other voluntary models. **Vizient and its hospitals strongly support CMS’s push for adoption of alternative payment models and are working to help ensure these complex models work for patients.** We also encourage the agency to seek stakeholder engagement to find ways to streamline and reduce provider burden, and make it easier for hospitals and health systems to participate.

The agency states that if the proposal to cancel the EPMs and CR incentive payment model is finalized, providers interested in participating in bundled payment models may still have an opportunity to do so during calendar year (CY) 2018 via new voluntary bundled payment models. Building on the BPCI initiative, the Innovation Center expects to develop new voluntary bundled payment model(s) during CY 2018 that would be designed to meet the criteria to be an Advanced Alternative Payment Model (APM). Vizient appreciates the agency’s commitment to creating new voluntary models for providers, and strongly urges CMS to provide hospitals and clinicians with additional opportunities to qualify for a 5 percent incentive payment through the Advanced APM path under The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) and the Quality Payment Program (QPP). **We encourage CMS to continue developing and expanding new, voluntary opportunities for providers so that, in part, all of the preparation hospitals have undertaken and all of the resources they have spent will be utilized for the delivery of high quality, cost-effective care.** Vizient members believe that the addition of episode-based models – when done thoughtfully – can fill a void in the Advanced APM models, and will assist specialists in reaching the required thresholds to obtain Qualified Provider (QP) status.

We cannot emphasize enough that hospitals want and need time to adequately prepare for bundled payment models, because they want to be successful throughout their participation. Even after care pathways are redefined and targeted interventions installed, it can still take many months for them to yield significant improvements in quality and reductions in the overall cost of care delivery. **Vizient members urge CMS to provide hospitals with additional time before downside risk is implemented in all bundled payment programs.** Hospitals need to be afforded the opportunity to take full advantage of the transition to downside risk, especially given

that many providers have limited experience doing so. Vizient members adhere to the mission of providing high quality health care to everyone they serve, and believe CMS should adequately and appropriately incentivize providers to participate in new payment models – especially in urban and rural areas.

On behalf of our members, we strongly urge CMS to provide regulatory stability and flexibility to ensure that hospital and health systems can continue to serve as access points for care in their communities. We strongly encourage CMS to protect providers that are positively impacting patients and our health care system so that our nation’s safety-net hospitals and health systems can continue to operate in the areas of our country that need them most.

Conclusion

Vizient appreciates CMS’s request for comments on this proposed rule and the opportunity to inform the agency on how specific proposals will impact our members. On behalf of our members, Vizient looks forward to working with CMS and continuing to support efforts that lead to affordable and innovative improvements to the nation’s health care system.

We welcome CMS’s discussion of options, which provides a significant opportunity for stakeholders to inform the agency on future endeavors to improve health care across the nation. Vizient members support the overall goal to improve the quality of care provided to patients while moving the Medicare system towards payment models that reward quality of care rather than volume of services. Vizient hopes CMS considers truly positive and meaningful solutions, and allows for adequate time and opportunity for testing and evaluation of bundled payment models in the future. The success of these programs should depend on the quality of care provided and the savings achieved – unhindered by rapidly changing or new regulatory requirements. **We respectfully ask that you consider the indispensable role played by America’s hospitals and health systems – and the potential impact that the proposed policy changes may have on their ability to continue providing the care for patients and communities they serve.**

Vizient membership includes a wide variety of hospitals ranging from independent, community-based hospitals to large, integrated health care systems that serve acute and non-acute care needs. Additionally, many are specialized, including academic medical centers and pediatric facilities. Individually, our members are integral partners in their local communities, and many are ranked among the nation’s top health care providers.

In closing, on behalf of Vizient, Inc., I would like to thank CMS for providing us this opportunity to comment on the proposed rule. Please feel free to contact me at (202) 354-2600 or Chelsea Arnone, Director of Regulatory Affairs and Government Relations (chelsea.arnone@vizientinc.com), if you have any questions or if Vizient can provide any assistance as you consider these issues.

Respectfully submitted,



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