

May 31, 2019

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 and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans in the Federally-Facilitated Exchanges and Health Care Providers [CMS-9115-P]

Dear Administrator Verma:

Vizient, Inc. appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services' (CMS) proposed rule aimed at promoting the interoperability of health information technology (health IT) and enabling patients to electronically access their health information as published on March 4, 2019 in the Federal Register (Vol. 84, No. 42). We share the agency's goals of advancing interoperability and increasing access to, and exchange of, electronic health information.

Background

Vizient is the nation's largest health care performance improvement company. Our mission is to strengthen our members' delivery of high-value care by aligning cost, quality and market performance. Vizient is member-driven and member-minded, working tirelessly to amplify each organization's impact by optimizing every interaction along the continuum of care. We serve a diverse membership 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.

Recommendations

Vizient appreciates the agency's efforts to support the MyHealthEData initiative in order to improve patient access and advance electronic data exchange and care coordination throughout the health care system. Additionally, Vizient supports the broad, long-term goal of using electronic health records (EHRs) to ease administrative burden and streamline reporting requirements. CMS asserts that this proposed rule outlines opportunities to make patient data more useful and transferable while reducing restrictive burdens on health care providers. Our

nation's hospitals have a strong, unwavering commitment to provide the best care for their patients, and to treat every patient that enters their doors with compassion and respect. In order to meaningfully reduce provider burden, Vizient encourages CMS to consider and incorporate the feedback received from providers in the final rule.

Revisions to the Conditions of Participation (CoPs) for Hospitals and Critical Access Hospitals (CAHs)

Vizient supports the agency's efforts to improve interoperability between health care providers. However, we have significant concerns with the policy approach the agency is proposing. CMS is proposing to require hospitals to send electronic "patient event notifications" as a Condition of Participation (CoP) in Medicare. These notifications would be required when patients are admitted, discharged, or transferred to another facility or community provider and would be required to be sent to providers who have an "established patient relationship" with the patient relevant to his or her care. However, CMS does not define what is considered an "established relationship" – thus complicating this proposal greatly, even at the outset. Hospitals throughout the country treat patients that come from all over the country (and world), making it nearly impossible to know which providers with whom patients may have an "established" relationship.

Although we agree with CMS that electronic patient event notifications could improve care coordination across patient care settings, we strongly disagree with expanding existing CMS requirements for interoperability within CoPs. Although the adoption of EHRs has increased, and there have been improvements in the availability of health information exchange infrastructure among acute-care hospitals, specifically, there are still significant operational challenges that would make full interoperability across the continuum of care extremely difficult to achieve. Given the consequences of providers not meeting CoP requirements, we strongly believe that CoPs are not the correct way to achieve the agency and hospitals' shared goal of interoperability. Additionally, Vizient believes that revising CoPs will be detrimental to rural and safety-net providers in particular. Furthermore, members have shared concerns that CMS's proposals would penalize providers for state-specific laws and rules regarding interoperability that already exist. If CMS were to revise current CMS CoPs for hospitals to impose different, federal requirements regarding interoperability and the exchange of electronic health care information – it would only create further challenges and complications for providers in these states.

Given that electronic patient event notifications from hospitals, or clinical event notifications, are an effective tool for improving care coordination across settings, we recommend CMS implement these requirements via other policy mechanisms – such as creating requirements regarding electronic notifications in the Promoting Interoperability Program. Until the infrastructure for exchange of health information is fully realized, and consistent standards across vendor platforms exist, this proposal bears too great of a burden on hospitals to implement. Vizient has applauded the administration's efforts to "cut the red tape" to reduce burdensome regulations for providers. Administrator Verma's "Patients over Paperwork" initiative was established to "evaluate and streamline regulations with a goal to reduce unnecessary burden, to increase efficiencies, and to improve the beneficiary experience¹." Vizient believes that this proposal is contradictory to this agency's commitment to increase efficiencies and reduce provider burdens².

¹ Centers for Medicare and Medicaid Services (2019, April 3). Patients over Paperwork: What is Patients over Paperwork? Retrieved from <https://www.cms.gov/Outreach-and-Education/Outreach/Partnerships/PatientsOverPaperwork.html> on May 29, 2019.

² Centers for Medicare and Medicaid Services. Patients over Paperwork. Retrieved from <https://www.cms.gov/About-CMS/story-page/patients-over-paperwork.html> on May 29, 2019.

In fact, CMS has previously published a Request for Information (RFI) on interoperability in several recent proposed rules, including the FY 2019 IPPS proposed rule (83 FR 20550). Vizient responded to this RFI in [our comment letter](#) to the agency. Vizient is disappointed that despite CMS's acknowledgment of stakeholder responses that "expressed concerns about implementing policy changes within the [Conditions of Participation] CoPs, which may increase the compliance burden on hospitals" – the agency is still seeking to further expand their requirements for interoperability within the hospital CoPs as part of this proposed rulemaking.

Vizient remains concerned about the agency's proposed use of tying these new proposed policies around interoperability to CoPs. Vizient strongly believes that maintaining compliance with frequently changing CoPs places further administrative burden on hospitals, and is duplicative of existing efforts to promote interoperability. Furthermore, there remain too many impediments to achieving interoperability – and penalizing hospitals by removing them from participating in the Medicare and Medicaid programs is an extreme and severe penalty. This penalty would damage not only the hospital – but its patients, employees and entire community.

Conclusion

Vizient welcomes CMS's request for comments, which provides a significant opportunity for stakeholders to inform the agency on how specific proposals will impact our members. **Vizient strongly believes that revising the current CMS CoPs for hospitals is an inappropriate method to promote interoperability. We respectfully ask that you consider the indispensable role played by America's hospitals and health systems in providing care for the patients and communities they serve. Our members adhere to the mission of providing high quality health care to everyone they serve – and Vizient strongly encourages CMS to consider policies that will protect providers that are positively impacting patients and our health care system.**

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, I would like to thank CMS for providing us the opportunity to comment on this important 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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