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Vizient Office of Public Policy and Government Relations

Regulatory Update: CMS "Advancing Care Coordination Through Episode Payment Models"

March 20, 2017

On Monday, March 20, the Centers for Medicare & Medicaid Services (CMS) issued an interim final rule with comment period (IFC) delaying the final rule's applicability date implementing the creation and testing of three new mandatory episode payment models (EPMs) and a Cardiac Rehabilitation (CR) incentive payment model, until October 1, 2017. Additionally, CMS further delayed the effective date of the final rule from March 21, 2017, until May 20, 2017.

If CMS determines that more policy changes to the EPMs are necessary, they will propose and finalize further revisions with additional rulemaking.

Background & Summary

The first two new episode payment models (EPMs) are for services surrounding an acute myocardial infarction (AMI) and coronary artery bypass graft (CABG). The third new EPM is a model for episodes of care surrounding surgical hip/femur fracture treatment excluding lower extremity joint replacement (SHFFT). The Cardiac Rehabilitation (CR) will test the use of CR and intensive cardiac rehabilitation (ICR) services for beneficiaries hospitalized for treatment of an AMI or CABG for 90 days post-hospital discharge.

The Trump administration issued a memorandum on inauguration day that directed agencies to postpone the effective dates of regulations that had been published in the Federal Register but had not yet taken effect. In accordance with this memorandum, CMS had previously delayed the effective date of the final rule from Feb.18 until March 21, 2017.

The interim final rule with comment period (IFC) further delays the effective date of the rule to May 20, 2017 and moves the applicability (model start) of the EPMs to Oct.1, 2017. Noting the need for advanced notice of the terms of the models by participant, and the fact that the episodes in the models involved exceed 90 days in duration, CMS believes that immediately moving the start date of the model to Oct. 1, 2017 is appropriate.

Until this IFC was issued, the first payment year for EPMs would have covered the 6-month period from July 1, 2017 through Dec. 31, 2017. Subsequent payment years would run a full 12 months aligned with the calendar year. Because the start date has been postponed until at least Oct. 1, 2017, CMS is seeking comment on a longer delay (e.g., Jan. 1, 2018) of the model start date. Considering the length of episodes in the models, the agency believes it would be preferable for participants to have at least 6 months for the first payment year – and furthermore, less burdensome to align with the calendar year. CMS is seeking comment on this longer delay of the model start date, and based on the feedback they receive, will implement any additional delay when finalizing the IFC.

What's Next?

In setting forth revised effective and model start dates, CMS wants to ensure that all parties can participate in any rulemaking resulting from their review. Although the agency has immediately adjusted the start date of the EPMs by 3 months, they believe a 6-month delay is warranted. Therefore, they are seeking public comment on further delaying the model start date to Jan. 1, 2018; based on the feedback they receive, they will implement any additional delay when finalizing the IFC.

CMS opted to issue an IFC to delay the effective and model start dates because of the extremely short period of time before the July 1, 2017 start date. If they were to issue a proposed rule – beginning the rulemaking process – it would require public comments to be submitted, considered and responded to in a final rule. This would have meant that it would not have been in effect before July 1.

Moreover, CMS's review of the policy is ongoing and they acknowledge the possibility of additional modifications. To prevent participant confusion and corresponding disruption – they will provide adequate time to undertake notice and comment rulemaking to make policy modifications (if warranted). In the case of policy modifications to the EPMs, CMS will ensure that participants have a clear understanding of potential rules so that they "are not required to take needless compliance steps" due to a brief time period before they are in effect.

Public comments are due April 19, 2017. Vizient's Office of Public Policy and Government Relations looks forward to hearing member feedback on this proposal to determine if feedback should be provided to CMS regarding the proposed additional delay of the start date to Jan. 1, 2018 and any other feedback regarding the implementation of the models themselves. CMS estimates that over 2,000 hospitals will be participants in the EPMs and CR Inventive Payment Model – and stakeholder feedback will play a major role in shaping future changes to policy.

This is the first regulation signed by newly confirmed CMS Administrator Seema Verma. Secretary of Health and Human Services, Dr. Tom Price, has been a vocal opponent of mandatory bundled payment models while serving in the House of Representatives, which is significant in that it offers providers some indication that there is openness to additional policy changes. While these delays do not come as much of a surprise, we encourage members to still be prepared for implementation of these bundles on their new effective dates until or unless different information is provided. The rulemaking process takes time, but we will be closely monitoring any federal actions, and continue to provide our members with summaries along the way.

Additional Resources

Chelsea Arnone, Regulatory Affairs and Government Relations Director in Vizient's Washington, D.C. office, can be reached at (202) 354-2608, and is monitoring this rule and other regulatory developments. Please reach out to her if you have any questions or if Vizient can provide any assistance as you consider these issues.