



June 13, 2017

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Room 314G, Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

Re: Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2018 Rates (CMS-1677-P)

Dear Administrator Verma:

On behalf of the American College of Physicians (ACP), I am pleased to share our comments on the Centers for Medicare and Medicaid Services' (CMS) notice of proposed rulemaking for the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2018 Changes (CMS-1677-P). The College is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 148,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Proposed Revisions to the Application and Re-Application Procedures for National Accrediting Organizations (AOs), Provider and Supplier Conditions, and Posting of Survey Reports and Acceptable Plans of Corrections (PoCs)

Background:

The Agency proposes to require CMS-approved accrediting organizations (AOs) to post final accreditation survey reports and acceptable Plans of Corrections (PoCs) on a public-facing website designated by the AO. Each AO applying or re-applying for CMS approval of its accreditation program would be required to provide a statement acknowledging that it agrees to make all Medicare provider or supplier final accreditation survey reports and acceptable

PoCs publicly available on its website. This information must be made available within 90 days after it is made available to the facilities being accredited for the most recent 3 years.

ACP Comments:

ACP has extensive policy in support of transparency throughout the health care system. This policy is most clearly articulated in the 2010 policy paper “Healthcare Transparency --- Focus on Price and Clinical Performance Information.”¹ The policy paper reflects the College's general support for the concept of healthcare transparency, contingent on the reported information meeting a number of important criteria including the information being:

- Reliable and valid;
- Transparent in its development;
- Open to prior review and appeal by the physicians and other healthcare professionals;
- Minimally burdensome to the reporting physician and other healthcare professionals;
- Comprehensible and useful to its intended audience including a clear statement of its limitations.

Based on this policy, while the College supports the public release of information, it has concerns regarding the process and format of the release of these survey reports and PoCs.

More specifically, the College recommends that:

- Physicians and other healthcare professionals have an opportunity to review the data for accuracy and any disputed information should be resolved prior to its public release.
- The data is released in a user-friendly format.
- The data is coupled with clear information regarding its appropriate use and its limitations.

Proposed Changes to the Medicare and Medicaid EHR Incentive Programs

Background:

CMS proposes a number of changes to the Electronic Health Record (EHR) reporting programs. The Agency proposes to modify the reporting period for the Medicare and Medicaid EHR Incentive Programs in 2018 to allow reporting to occur for any continuous 90-day period rather than a full calendar year. CMS also proposes to align the electronic Clinical Quality Measures (eCQMs) in the Medicaid EHR Incentive program with those that are available to eligible clinicians (ECs) in the Merit-based Incentive Payment System (MIPS) under the Quality Payment Program (QPP) and allow for a 90-day performance period. Consistent with mandates in the 21st Century Cures Act, the Agency proposes to add an exception from Medicare payment adjustments for EHR reporting for ECs, eligible hospitals, and Critical Access Hospitals that are unable to demonstrate meaningful use because their certified EHR technology has been de-certified by the Office of the National Coordinator (ONC). ECs and hospitals that fit within this exception must demonstrate through an application process that they meet the exception criteria.

¹ http://www.acponline.org/advocacy/current_policy_papers/transparency.pdf

Additionally, the Agency notes that it intends to maintain the requirement that hospitals use 2015 Edition certified EHR technology (CEHRT) for the 2018 performance period. CMS notes that it will monitor the status of 2015 Edition CEHRT deployment and implementation and may consider offering flexibility if the Agency identifies significant issues with the deployment.

ACP Comments:

The ACP applauds the steps that CMS has taken regarding potential changes to the Medicare and Medicaid EHR Incentive Programs. We thank the Agency for allowing new and returning participants attesting to CMS or their state Medicaid agency to report for a minimum of any continuous 90-day period during CY 2018. Additionally, we support CMS' proposal to modify the CQM reporting period for EPs electronically reporting CQMs under the Medicaid EHR Incentive Program to a minimum of a continuous 90-day period during the calendar year and align CQMs with those in MIPS. Not only will allow EPs and hospital groups the flexibility to report later in the year as they see fit but it also moves the program closer to alignment with MIPS reporting requirements.

We are pleased to see the inclusion of provisions that specifically protect the physician community by adding a new exception from the Medicare payment adjustments for EPs, eligible hospitals, and CAHs that are unable to comply due to de-certification of their EHR technology under ONC's Health IT Certification Program. ACP would welcome more guidance and assurance to hospitals and physicians who may find themselves in this scenario of trying to recover from health IT missteps and the impact that these courses of action, such as decertification, have on other end users.

The College requests a deferment from implementing 2015 Edition certified electronic health record technology (CEHRT) until such technology is widely available, and, in no event, sooner than January 2019. The incentive programs require the use of 2015 Edition technology starting in 2018 however until that technology is readily available to physicians across a wide variety of specialties, the use of 2015 Edition CEHRT should remain voluntary. ONC released the final 2015 Edition requirements on October 6, 2015, however few vendors have fully upgraded their systems with only a few full EHR modules posted on the Certified Health IT Product List (CHPL). Importantly, the vast majority of the certified 2015 Edition products are from a small number of vendors. Requiring physicians to upgrade to 2015 Edition technology by 2018 limits choice by forcing physicians to select a system from approximately one percent of existing products. With less than seven months left in 2017, most physicians have no guarantee when or if their current vendor will achieve certification. Further, it is a long way for a vendor to go from initial certification to having a system ready for implementation. In addition, physicians may be driven to switch vendors and utilize a system that is not suitable for their specialty or patient population due to this tight timeline.

The switch to 2014 Edition CEHRT created similar challenges and resulted in a large backlog of products. This eventually required CMS to create a hardship exemption for technology delays that was announced late into the program year—furthering confusion and uncertainty in the MU program. A tremendous amount of time is required from successful completion of

certification of a new version of an EHR system to the point where all of the clinicians and staff in a practice are fully using the new system. For a small practice, this could take six months plus time they have to wait for their implementation to begin. For a large hospital, it could take 18 months plus wait times. Requiring use of the 2015 Edition CEHRT requirements in 2018 will set up hospitals and physicians to fail. To assist hospitals and physicians, ACP urges CMS to continue to allow the use of both the 2014 and 2015 Editions of CEHRT through CY 2018.

The College greatly appreciates the opportunity to submit our comments on the Medicare Hospital Inpatient Prospective Payment System Proposed Rule. If you have any questions regarding this letter, please contact Brian Outland, Director, Regulatory Affairs at boutland@acponline.org.

Sincerely,

A handwritten signature in black ink that reads "Jacqueline W. Fincher MD". The signature is written in a cursive, flowing style.

Jacqueline W. Fincher, MD, MACP
Chair, Medical Practice and Quality Committee
American College of Physicians