

CMS Proposes Hospital Value-Based Purchasing Rules

On January 7, 2011, the Centers for Medicare & Medicaid Services (CMS) released a proposed rule to implement a hospital value-based purchasing (VBP) program as mandated by the Affordable Care Act (ACA). The program would apply to payments for discharges occurring on or after October 1, 2012, and would reward with higher payments hospitals that score well on quality care measures. Comments are due by March 8, 2011. The text of the proposed rule is available [here](#).

The proposed VBP program builds on quality measures already reported by hospitals under the Medicare Hospital Inpatient Quality Reporting Program (Hospital IQR Program), as well as borrowing heavily from a 2007 report that CMS submitted to Congress entitled “Plan to Implement a Medicare Hospital Value-Based Purchasing Program.” Pursuant to the ACA, VBP program incentive payments would be funded by reducing hospitals’ base operating diagnosis related group payments by 1% in fiscal year (FY) 2013, rising to 2% by FY 2017, all of which would be paid out as incentives. The Hospital IQR Program would operate in parallel to the proposed VBP program, and a hospital would be required to continue to participate in the reporting program to avoid payment penalties.

Performance Measures

For FY 2013, CMS proposes quality measures consistent with the ACA’s mandate to address acute myocardial infarction, heart failure, pneumonia, surgical care activities, healthcare-associated infections, and patient perceptions of care. CMS proposes initially to use seventeen clinical processes of care measures from the Hospital IQR Program and eight measures from the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey. CMS proposes to expand the program in FY 2014 to include eight Hospital Acquired Condition measures, nine AHRQ Patient Safety Indicator and Inpatient Quality Indicator outcome measures (recently added to the Hospital IQR Program), and three risk-standardized mortality measures.

Notably, CMS also proposes to create a subregulatory process allowing it the flexibility to add new measures without public comment: “Under this process we could add any measure to the Hospital VBP program if that measure is adopted under the Hospital IQR program and has been included on the Hospital Compare website for at least one year.” In particular, CMS states that it “seeks to move as quickly as possible to the use of primarily outcome and patient experience measures.”

Calculating Performance

Hospitals would be eligible to receive incentive payments not only for achieving specified quality benchmarks, but also for improving their performance as compared to a baseline period. To generate hospital performance scores, CMS proposes a model with three separate scoring domains (the Three-Domain Performance Scoring Model): clinical process of care, patient experience, and, beginning in FY 2014, outcome measures.

- **Performance Period.** The measurement period for clinical process of care and HCAHPS performance for FY 2013 would be the three quarters beginning July 1, 2011. For later fiscal years, CMS anticipates using data from a full twelve months as the performance period for clinical process of care and HCAHPS measures, but has left that change to a future proposal. The proposed baseline period against which performance improvement would be measured is from July 1, 2009 to March 31, 2010. CMS expects to complete its analysis of this data by the end of January 2011.
- **Clinical process of care scores.** Clinical process of care scores would be the higher of an achievement score and an improvement score. To earn points for achievement, a hospital would have to perform at least as well as half of all hospitals during the performance period. To earn improvement points, a hospital would have to exceed its own baseline period performance.
- **Outcome scores.** Outcome scores would be implemented beginning in 2014 following the same methodology as clinical process of care scores, and would initially be based on three measures of mortality (but using an eighteen-month performance period beginning July 1, 2011).
- **Patient experience of care scores.** Patient experience of care scores would be a combination of (1) the higher of an achievement score and an improvement score based on eight measures derived from the HCAHPS survey and calculated in a manner similar to the clinical process score, and (2) a consistency score based on the strength of a hospital's lowest component score on the HCAHPS survey.
- **Total Performance Score.** CMS proposes to calculate each hospital's total performance score by weighting its clinical process of care score by 70% and its patient experience of care score by 30%. CMS is soliciting comments on the appropriate weight for the outcome score.

CMS plans to make each hospital's estimated performance scores and incentive payments available to it 60 days prior to October 1, 2012. Actual scores and payment amounts would not be available until November 1, 2012. Each hospital's total performance, domain-specific, and condition-specific scores would be made publicly available on the Hospital Compare website, pursuant to the ACA.

If you have questions about this proposed rule or other aspects of value-based purchasing, please contact the Ropes & Gray attorney who normally advises you.