

## CMS PUBLISHES FINAL RULE FURTHER DELAYING BUNDLED PAYMENT PROGRAMS

On May 18, 2017, the Centers for Medicare & Medicaid Services ("CMS") published a final rule (the "Final Rule") effectively postponing the start date of CMS's new episode payment models ("EPMs") and the Cardiac Rehabilitation Incentive Payment Model ("CR Incentive Model") from July 1, 2017 until January 1, 2018. The Final Rule also delayed the start date of recent conforming changes to the Comprehensive Care for Joint Replacement Model ("CJR Model") from July 1, 2017 until January 1, 2018. Other important changes to the CJR Model, however, will still go into effect on May 20, 2017.

### BACKGROUND

On January 3, 2017,<sup>[1]</sup> CMS published a final rule (the "EPM Final Rule") creating three new EPMs covering services provided to Medicare beneficiaries admitted to certain Inpatient Prospective Payment System hospitals for heart attacks, coronary bypass surgery or surgical hip or femur fracture treatment ("SHFFT"). The EPM Final Rule also created the CR Incentive Model and amended several CJR Model regulations. For a detailed analysis of the EPM Final Rule and the CJR amendments, click [here](#).

The EPM Final Rule originally had an applicability date (i.e., start date) of July 1, 2017. However, on March 21, 2017<sup>[2]</sup>, CMS published an interim final rule (the "[Interim Final Rule](#)") effectively postponing the start date of the new EPMs and the CR Incentive Model from July 1, 2017 until October 1, 2017. The Interim Final Rule also delayed until October 1, 2017 certain changes to the CJR Model regulations intended to align the CJR Model with the EPMs. However, other significant CJR Model amendments contained in the EPM Final Rule were given a start date of May 20, 2017. For a detailed analysis of the Interim Final Rule, click [here](#).

### DELAYED EFFECTIVE AND APPLICABILITY DATES

The Final Rule further delays the start dates for the EPMs, CR Incentive Payment Model and the conforming CJR regulations, as follows:

- The start date for the EPMs and CR Incentive Model has been postponed to **January 1, 2018**.
- The start date for conforming changes to the CJR Model to align the CJR Model with the EPMs has been postponed to **January 1, 2018**. However, providers participating in the CJR Model should be aware that other important changes to the CJR Model outlined in the EPM Final Rule still go into effect on **May 20, 2017**, including but not limited to, the following:
  - Modifications to the CJR Model reconciliation and payment process;
  - Imposition of financial responsibility on participant hospitals for non-covered skilled nursing facility ("SNF") stays if the hospital discharges a beneficiary to a non-qualifying SNF without providing the required notice;
  - Changes to certain beneficiary choice and beneficiary notification requirements; and
  - New Certified Electronic Health Record Technology track requirements for participating hospitals in performance years 2 through 5.

### PRACTICAL TAKEAWAYS

Perhaps the most challenging aspect of CMS's recent actions regarding the new EPMs and CJR amendments is determining the actual date on which providers will be required to comply with the new regulations (the Interim and Final Rules have variously referred to "effective" dates, "implementation" dates and "applicability" dates). Providers participating in the CJR Model should be aware of the immediacy of the May 20, 2017 changes to the CJR Model and should continue to prepare for other CJR Model changes that will be effective January 1, 2018. Current CJR Model participants should also continue to prepare to participate in the new SHFFT EPM as of January 1, 2018. Providers who will participate in the cardiac EPMs and CR Incentive Model should continue to prepare for such models with an eye towards a January 1, 2018 start date.

CMS stated in this Final Rule that it received public comments regarding other parameters of the EPMs, CR Incentive Model and CJR Model, including participation requirements, data, pricing, quality measures, episode length, CR and SNF waivers, beneficiary exclusion and notification requirements, repayment, coding and model overlap issues. CMS reiterated that although these issues were outside the scope of this Final Rule, these issues may be considered in future rulemaking.

If you have questions about the implications of the Final Rule or the applicability date of various provisions or would like additional information about this topic, please contact:

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[1] The EPM Final Rule was originally published on December 20, 2016 for public inspection.

[2] The Interim Final was originally published on March 20, 2017 for public inspection.