CMS PROPOSES RULE TO IMPLEMENT VALUE-BASED PURCHASING PROGRAM FOR IPPS HOSPITALS

This installment of Hall Render's Health Law Broadcast series on health care reform is designed to provide you with the insight, analysis and practical suggestions with respect to the various reform initiatives that will affect your organization.

VALUE-BASED PURCHASING PROGRAM - A BROAD OVERVIEW

On January 13, 2011, the Centers for Medicare and Medicaid Services ("CMS") issued a proposed rule to implement a Hospital Value-Based Purchasing Program ("VBP Program") as required by section 3001(a) of the Patient Protection and Affordable Care Act ("ACA"). Under the VBP Program, CMS would pay not just for reporting quality data but for a hospital's performance with respect to the data.

The purpose of the VBP Program is to move CMS from a fee-for-service health care delivery model to a quality of care model where patient outcomes are rewarded. Under the VBP Program, beginning in FY 2013, CMS will pay acute care inpatient prospective payment system ("IPPS") hospitals value-based incentive payments for meeting minimum performance standards for certain quality measures with respect to a performance period designated for each fiscal year. The VBP Program will apply to payments for discharges occurring on or after October 1, 2012. The incentive payments for FY 2013 will be funded through a DRG payment reduction of 1% per discharge based on FY 2012 operating DRG payments. The DRG payment reduction will increase to 2% by FY 2017.

HOSPITALS ELIGIBLE FOR VBP PROGRAM PAYMENTS

The VBP Program applies to all acute care hospitals other than hospitals and hospital units excluded from the IPPS such as psychiatric, rehabilitation, children's, long-term acute care, and cancer hospitals. Because critical access hospitals ("CAH") are not subject to the IPPS, they would be excluded from the VBP Program as well - CAHs are not mentioned in the VBP Program proposed rule. Further, new section 1886(o)(1)(C) of the Social Security Act ("SSA") excludes from the definition of "hospital," with respect to a particular fiscal year: (i) a hospital that is subject to certain payment reductions related to the Hospital Inpatient Quality Reporting or IQR program; (ii) a hospital cited for deficiencies characterized as posing "immediate jeopardy" to the health and safety of patients; and (iii) a hospital not having a minimum number of applicable performance measures or cases for such applicable measures for the performance period in a given fiscal year.

PROPOSED VBP PROGRAM MEASURES

For the FY 2013 Hospital VBP Program, CMS proposes to use 17 clinical process-of-care measures as well as 8 measures from the Hospital Consumer Assessment of Healthcare Providers and Systems, ("HCAHPS") survey that document patients' experience of care. Hospitals are familiar with these measures because they have been reporting on them since roughly 2006. The chart below sets forth the proposed measures.

Clinical Process of Care Measures

Measure ID **Measure description**

Acute myocardial infarction:

AMI-2 Aspirin Prescribed at Discharge.

AMI-7a Fibrinolytic Therapy Received Within 30 Minutes of Hospital Arrival.

AMI-8a Primary PCI Received Within 90 Minutes of Hospital Arrival.

Heart Failure:

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HF-1 Discharge Instructions.

HF-2 Evaluation of LVS Function.

HF-3 ACEI or ARB for LVSD.

Pneumonia:

PN-2 Pneumococcal Vaccination.

PN-3b Blood Cultures Performed in Emergency Department Prior to Initial Antibiotic Received in Hospital.

PN-6 Initial Antibiotic Selection for CAP in Immunocompetent Patient.

PN-7 Influenza Vaccination.

Health care-associated infections:

SCIP-Inf-1 Prophylactic Antibiotic Received Within One Hour Prior to Surgical Incision.

SCIP-Inf-2 Prophylactic Antibiotic Selection for Surgical Patients.

SCIP-Inf-3 Prophylactic Antibiotics Discontinued Within 24 Hours After Surgery End Time.

SCIP-Inf-4 Cardiac Surgery Patients with Controlled 6AM Postoperative Serum Glucose.

Surgeries:

SCIP-Card-2 Surgery Patients on a Beta Blocker Prior to Arrival That Received a Beta Blocker During the Perioperative Period.

SCIP-VTE-1 Surgery Patients with Recommended Venous Thromboembolism Prophylaxis Ordered.

SCIP-VTE-2 Surgery Patients Who Received Appropriate Venous Thromboembolism Prophylaxis Within 24 Hours Prior to Surgery to 24 Hours After Surgery.

Survey Measures

HCAHPS Hospital Consumer Assessment of Healthcare Providers and Systems Survey.

Communication with Nurses

Communication with Doctors

Responsiveness of Hospital Staff

Pain Management

Communication About Medicines

Cleanliness and Quietness of Hospital Environment

Discharge Information

Overall Rating of Hospital

The proposed measures were derived from the Hospital IQR program and have been included on the Hospital Compare Website for at least

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one year prior to the beginning of the "performance period" (i.e., the period upon which the VBP payment determination is based), as required by the ACA. In choosing the measures for the start-up year, CMS excluded IQR measures on which hospital performance was determined to be "topped out," meaning all but a few hospitals have achieved a similarly high level of performance (e.g., AMI-1 Aspirin at Arrival and HF-4 Smoking Cessation). However, CMS intends to include for future fiscal years certain mortality outcome measures not currently eligible for inclusion it believes provide important information related to patient safety and treatment outcomes, as well as 8 hospital acquired condition ("HAC") measures and 9 Agency for Healthcare Research and Quality ("AHRQ") measures as follows:

8 Hospital Acquired Condition Measures

Foreign Object Retained After Surgery

Air Embolism

Blood Incompatibility

Pressure Ulcer Stages III & IV

Falls and Trauma: (Includes: Fracture, Dislocation, Intracranial Injury, Crushing Injury, Burn, Electric Shock)

Vascular Catheter-Associated Infections

Catheter-Associated Urinary Tract Infection (UTI)

Manifestations of Poor Glycemic Control

9 AHRQ Patient Safety Indicators (PSIs), Inpatient Quality Indicators (IQIs), and Composite Measures

PSI 06--Iatrogenic pneumothorax, adult

PSI 11--Post Operative Respiratory Failure

PSI 12--Post Operative PE or DVT

PSI 14--Postoperative wound dehiscence

PSI 15--Accidental puncture or laceration

IQI 11--Abdominal aortic aneurysm (AAA) repair mortality rate (with or without volume)

IQI 19--Hip fracture mortality rate

Complication/patient safety for selected indicators (composite)

Mortality for selected medical conditions (composite)

It should be noted that the number and type of clinical process of care measures applicable to each hospital will vary depending on the type of services the hospital provides. CMS is proposing that a measure applies to a hospital if, during a particular performance period, the hospital treats at least 10 cases meeting the technical specifications for reporting such measure. In addition, there must be at least 4 applicable measures within a "domain" (i.e., measure grouping such as process of care measures) for the hospital to receive a performance score on that domain. Along the same line, CMS is also proposing that hospitals must report a minimum of 100 HCAHPS surveys during the performance period in order to be included in the FY 2013 VBP Program.

PROPOSED PERFORMANCE PERIODS AND COMPARISON BASELINE PERIODS

For the FY 2013 payment determination, CMS proposes to review performance on the program measures for the period beginning July 1, 2011 and ending March 31, 2012. In order to gauge improvement, CMS will compare performance on these measures with performance achieved during a "baseline period" spanning July 1, 2009 through March 31, 2010. With respect to three proposed mortality outcome measures for FY 2014, CMS proposes to use an 18-month performance period from July 1, 2011 to December 31, 2012. The performance for this period will be compared to performance on the outcome measures during a proposed baseline period of July 1, 2008 to December 31,

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2009.

PROPOSED PERFORMANCE STANDARDS/MEASUREMENT

Each hospital's performance on the VBP measures will be evaluated by looking at both the hospital's achievement in comparison with other hospitals and at its level of improvement compared to its own performance during the baseline period. CMS proposes to calculate a total performance score for each hospital by combining the greater of the hospital's achievement or improvement points for each measure to determine a score for each domain, multiplying that domain score by a proposed weight (clinical process of care: 70% and patient experience of care: 30%) and adding together the weighted domain scores. Each total performance score would then be converted into a VBP payment. With respect to the HCAHPS surveys, CMS also proposes that the scoring methodology include points for "consistency." The consistency points would measure whether hospitals are meeting achievement thresholds across the 8 proposed HCAHPS measures. CMS believes the consistency metric will encourage hospitals to meet performance thresholds for all 8 HCAHPS measures.

To calculate a hospital's achievement score, CMS is proposing to establish an "achievement threshold," the minimum level of hospital performance required to earn achievement points, and an "achievement benchmark." For example, with respect to the clinical process of care domain, the achievement benchmark would be set as the mean of the top decile of hospital performance during the baseline period. The achievement threshold would be set at the median (50%) score for hospital performance, meaning the point at which the performance of the hospital is better than the performance of half of all hospitals during the baseline period. Total achievement points would be determined based on the hospital's performance along the achievement threshold to achievement benchmark continuum.

REQUEST FOR COMMENTS

The VBP Program is a complex work in progress which will be modified and fine-tuned over time. CMS plans to monitor and evaluate the VBP Program and its effect on patterns and quality of care. It will adopt and eliminate performance measures in order to facilitate the goal of achieving the highest quality care for Medicare beneficiaries. At this time, CMS is requesting comments on the proposed rule to implement the VBP Program. Comments must be received no later than 5 p.m. on March 8, 2011 to be assured consideration. Commenters should reference file code CMS-3239-P and should follow comment submission instructions set forth at http://edocket.access.gpo.gov/2011/pdf/2011-454.pdf.

If you have any questions, or need assistance preparing or submitting comments, please do not hesitate to contact **Adele Merenstein**, **Regan Tankersley**, or **Brian Betner** at 317-633-4884 or your regular Hall Render attorney.

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