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Alerts

New Business Opportunity for Health Care Providers: The Medicare Bundled Payments for Care Improvement Initiative

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Health Law Alert

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The Centers for Medicare & Medicaid Services (CMS), on August 23, 2011, invited providers to apply for participation in a new bundled payment initiative (BPI). Under this BPI, rather than paying separately for each item or services, a single payment is made for a defined group of services. The bundled payment may cover services furnished by a single entity (a hospital or other provider) or it may be used to pay for items or services furnished by several providers in multiple care-delivery settings. The current set of bundled payment opportunities being offered by CMS only address acute care conditions; in the future CMS will be requesting applicants to assume bundled payments for chronic care conditions.

The BPI provides more flexibility and choices for health care organizations interested in shared-savings incentives, as applicants can design their own programs to meet the needs of their local health care community (rather than have to participate in the one-size-fits-all accountable-care organization (ACO)-shared-savings model). For interested organizations, the BPI may be a good opportunity for partnering with other providers in order to share in savings achieved from coordinated care efforts.

Eligible Applicants

Eligible provider applicants include acute care hospitals, health systems, inpatient rehabilitation facilities, long-term care hospitals, physician group practices, physician hospital organizations, skilled-nursing facilities, and conveners of participating health care providers. Providers will have significant flexibility in selecting: (1) conditions and services to include within the bundle and (2) participating partners within their health care delivery structure, as well as in determining how payments will be allocated among participating providers.

Bundled Payment Model Options

Under the BPI, providers may apply for any of four models of care, three of which involve a retrospective bundled payment, and one of which involves a prospective payment. The models are defined as:

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Model 1: A retrospective bundle that covers only the acute care hospital stay

In Model 1, the episode of care would be defined as the inpatient stay in the general acute-care hospital. Medicare will pay the hospital a discounted amount based on the payment rates established under the inpatient prospective payment system (IPPS). Medicare will pay physicians separately for their services under the Medicare physician fee schedule. Hospitals and physicians will be permitted to share gains arising from better coordination of care.

Model 2: Retrospective payment for the acute care hospital stay, plus post-acute care associated with the stay, for a period to be defined by providers

In Model 2, the episode of care would include the inpatient stay and post-acute care and would end, at the applicant's option, either a minimum of 30 or 90 days after discharge. In this model the bundle would include physicians' services, care by a post-acute provider, related readmissions, and other services proposed in the episode definition such as clinical laboratory services; durable medical equipment, prosthetics, orthotics and supplies (DMEPOS); and Medicare Part B drugs. The target price will be discounted from an amount based on the applicant's historical fee-for-service payments for the episode. Payments will be made at the usual fee-for-service payment rates, after which the aggregate Medicare payment for the episode will be reconciled against the target price. Any reduction in expenditures beyond the discount reflected in the target price will be paid to the participants to share among the participating providers.

Model 3: Post-acute care only, beginning with the initiation of post-acute care after discharge from an acute inpatient stay, which will be paid retrospectively

In Model 3, the episode of care would begin at discharge from the inpatient stay and would end no sooner than 30 days after discharge. The Model 3 bundle would include physicians' services, care by a post-acute provider, related readmissions and other services proposed in the episode definition, such as clinical laboratory services; DMEPOS; and Medicare Part B drugs. The target price will be discounted from an amount based on the applicant's historical fee-for-service payments for the episode. Payments will be made at the usual fee-for-service payment rates, after which the aggregate Medicare payment for the episode will be reconciled against the target price. Any reduction in expenditures beyond the discount reflected in the target price will be paid to the participants to share among the participating providers.

Model 4: Prospective payment for all services provided during the inpatient stay

Under Model 4, CMS would make a single, prospectively determined bundled payment to the hospital that would encompass all services furnished during the inpatient stay by the hospital, physicians and other practitioners. Physicians and other practitioners would submit "no-pay" claims to Medicare and would be paid by the hospital out of the bundled payment.

All four models would require applicants to propose, monitor and report to CMS a set of quality measures.

CMS has prepared a comparison of the four bundled payment model options. Further information regarding this initiative, including application materials, is available on the Center for Medicare and Medicaid Innovations' Bundled Payment for Care Improvement website.

Application Requirements

Applicants may apply for and participate in one or more BPI models. Participation in the BPI will be awarded through a competitive bidding process. The BPI application and program design process is complex. Applicants will be required to include the following information in their applications: (1) identify the clinical condition(s) through MS-DRGs, define the time period for the episode of care, and identify the services included in the bundled payment, among other criteria; and (2) plan and implement quality assurance and improvement activities as a condition of participation in this initiative and participate in CMS quality monitoring by reporting appropriate quality measures. It is not clear what criteria CMS will use to evaluate the applications, however CMS has indicated that it will give preference to applicants who are meaningful users of health information technology or who have a minimum of 50 percent of their providers meeting the standards for meaningful use. CMS will also look favorably on applications that indicate a higher historical rate of physician participation in the physician quality reporting system (PQRS), and applications that include governing bodies with meaningful representation from consumer advocates, patients, and all participating provider types/organizations, and applications that

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include functional status in the proposed quality measures.

CMS will carefully monitor the BPI program to ensure improved clinical quality, patient experience, and outcomes of care throughout participation in the initiative. The contract period for BPI agreements will be for three years, with the possibility of extending an additional two years.

Application Deadlines

Interested organizations must submit letters of intent by September 22, 2011 for Model 1, and November 4, 2011, for all other models. If an interested organization wishes to receive historical Medicare claims data in preparation for Models 2–4, a separate research packet and data-use agreement must be filed in conjunction with the letter of intent. Final applications are due on October 21, 2011, for Model 1, and March 15, 2011, for Models 2–4. The anticipated BPI program start date is the first quarter of 2013 for Model 1. CMS has not indicated the anticipated start date for Models 2–4.

Each of the bundled payment models contemplate creation of legally binding arrangements among the participants. Interested applicants should consult with health care law counsel to assist in the development of contractual arrangements between the “bundled payment team,” and to ensure that proposed bundled payment arrangements comply with applicable state and federal law.

For more information, please contact Michael A. Dowell, or your regular Hinshaw attorney.

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