HINSHAW

Alerts

Health Care Reform Includes Initiatives to Promote Clinical Integration

April 15, 2010
Health Care Alert

This is the fourth in a series of health care alerts that Hinshaw & Culbertson LLP will publish on the topic of health care reform.

Health care providers across the United States recognize the importance of clinical integration to improve the quality and efficiency of care. The recently enacted Patient Protection and Affordable Care Act of 2010 (PPACA) contains a number of initiatives that attempt to promote these clinical integration efforts.

Center for Medicare and Medicaid Innovation
PPACA establishes the Center for Medicare and Medicaid Innovation (Center) within the Centers for Medicare and Medicaid Services (CMS). The Center's purpose will be to research, develop, test, and expand innovative payment and delivery arrangements to improve the quality and reduce the cost of care provided to patients in each program. PPACA provides dedicated funding to allow for testing of models that include benefits not currently covered by Medicare. Successful models may be expanded nationally. Payment reform models are included in the list of projects for the Center to consider, including rural telehealth expansions and the development of a rapid learning network. PPACA further requires that quality measures used by the Center are consistent with the quality framework within the underlying bill, and that the Secretary of the U.S. Department of Health and Human Services (HHS) focus on models that both improve quality and reduce costs.

PPACA also establishes the Medicaid global payment system demonstration project. This project will allow up to five states to coordinate with the Center to adjust their current payment structure for safety net hospitals from a fee-for-service model to a global capitated payment structure.

Gainsharing Demonstration Extension
PPACA extends the gainsharing demonstration authorized by the Deficit Reduction Act of 2005. This demonstration evaluates arrangements between hospitals and physicians designed to improve the quality and efficiency of care provided to beneficiaries. PPACA continues the demonstration through September 30, 2011, and delays the date for the final report to Congress on the demonstration to September 30, 2012. It also authorizes an additional $1.6 million in 2010 for carrying out the demonstration.

Community-Based Care
PPACA creates a program to establish and fund the development of community health teams to support the development of medical homes by increasing access to comprehensive, community-based, coordinated care. Nurse practitioners and other primary care providers may participate in community care teams.

Medication Management
PPACA creates a program to support medication management services by local health providers. Medication management services are designed to help manage chronic disease, reduce medical errors, and improve patient adherence to therapies while reducing acute care costs and reducing hospital readmissions.

Accountable Care Organizations and Medicaid Savings
PPACA establishes the Medicare shared savings program, which rewards Accountable Care Organizations (ACOs) that take responsibility for the costs and quality of care received by their patient panel over time. ACOs can include groups of health care providers (including physician groups, hospitals, nurse practitioners and physician assistants, and others). ACOs that meet quality-of-care targets and reduce the costs of their patients relative to a spending benchmark will be rewarded with a share of the savings they achieve for the Medicare program. PPACA also provides additional flexibility to the Secretary of HHS to implement innovative payment models for participating ACOs, including models currently used in the private sector.

PPACA also establishes the Pediatric Accountable Care Organization demonstration project, which allows qualified pediatric providers to be recognized and receive payments as ACOs under Medicaid if they meet certain performance guidelines.

Bundled Payments
PPACA directs the Secretary of HHS to develop a national, voluntary pilot program encouraging hospitals, doctors and post-acute care providers to improve patient care and achieve savings for the Medicare program through bundled payment models. This program must be established by January 1, 2013, and last for a period of five years. Before January 1, 2016, the Secretary of HHS is also required to submit a plan to Congress to expand the pilot program if doing so will improve patient care and reduce spending. PPACA provides the Secretary authority to expand the payment bundling pilot if it is found to improve quality and reduce costs. PPACA also directs the Secretary to test bundled payment arrangements involving continuing care hospitals within the bundling pilot program. Additionally, PPACA establishes a demonstration project, in up to eight states, to study the use of bundled payments for hospital and physicians services under Medicaid.

In short, PPACA creates several programs designed to assist clinical integration efforts. However, it should be noted that a number of barriers to clinical integration remain, including the complex requirements of the Stark Law, the Anti-Kickback Statute and the Civil Monetary Penalties law. A provision that would have mandated the U.S. Government Accountability Office to study and make recommendations on what to do about the barriers posed by these laws to clinical integration was, unfortunately, not included in the final bill. Nonetheless, as clinical integration becomes a greater focus of the health care community, the above provisions may provide some important tools.

For more information, please contact Lora L. Zimmer or your regular Hinshaw attorney.

This alert has been prepared by Hinshaw & Culbertson LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship.