July 2, 2021: National Advocacy Update

CMS releases new 2021 MIPS historical quality benchmark file due to errors

The Centers for Medicare & Medicaid Services (CMS) recently released a new 2021 Merit-based Incentive Payment System (MIPS) historical quality measure benchmark file (.ZIP) due to the discovery of a miscalculation with the decile outputs affecting every historical measure benchmark in the files released earlier in 2021.

The issue was identified as part of CMS' ongoing quality assurance checks with reviewing MIPS data. The issue affects every measure in the 2021 benchmarks file and has now been corrected with the June 2021 updated release. As a result of the correction, the range of performance rates for a given decile have shifted down one decile.

For example:

- The range of performance rates that were previously identified for Decile 5 (eligible for 5–5.9 points) now show correctly as the range of performance rates for Decile 4 (eligible for 4–4.9 points).
- The range of performance rates that were previously identified for Decile 8 (eligible for 8–8.9 points) now show correctly as the range of performance rates for Decile 7 (eligible for 7–7.9 points).

CMS has confirmed to the AMA that the error was specific to the benchmark file only and does not impact or apply to 2021 MIPS payment/2019 performance rates.

Third-party intermediaries, such as qualified registries and qualified clinical data registries (QCDR) that have already ingested the 2021 quality measure benchmarks through CMS' Application Programming Interface (API) must update this information.

The AMA encourages physicians and practices to consider the increased flexibilities CMS has finalized for the 2021 MIPS program due to the COVID-19 Public Health Emergency by applying for the 2021 Extreme and Uncontrollable Hardship Exemption (E&C hardship exemption). The deadline to

apply for the 2021 performance year is Dec. 31, at 8 p.m. Eastern.

For immediate questions please contact the Quality Payment Program at (866) 288-8292 or email. Customers who are hearing impaired can dial 711 to be connected to a TRS communications assistant.

AMA and AHA urge CMS to delay appropriate use criteria program

The AMA, joined by the American Hospital Association, urged (PDF) CMS to delay the Jan. 1, 2022, implementation of the Appropriate Use Criteria (AUC) program by at least one year. As a result of the COVID-19 pandemic, physicians and hospitals need more time to adjust workflows, train staff and test operational changes necessary to achieve compliance with the program.

In addition, there remain questions concerning how best to implement the program, including how to efficiently populate and include necessary ordering information on a diagnostic imaging claim. During the ongoing public health emergency, CMS has not issued additional information for provider education, and the AMA continues to be very concerned about a lack of awareness of the AUC program requirements.

Joint letter urges Medicare to delay and study proposed changes to transplant policies

The AMA joined national medical specialty societies, health care organizations and other stakeholders to raise concerns about proposed changes to Medicare transplant payment policies in the 2022 Inpatient Prospective Payment System Proposed Rule in a letter (PDF) to CMS. The most significant proposed change would eliminate a longstanding feature of the payment system under which organs that are procured at a transplant center hospital and transplanted at another transplant center are “counted” as Medicare organs for the purpose of determining Medicare’s portion of organ acquisition costs.

This proposal has the potential to significantly reduce the deceased donor organs available for transplantation, reduce access to transplantation and increase the number of patients who die while waiting for a transplant. The AMA and co-signing organizations strongly urge CMS not to move forward with the transplant-related proposals prior to completion of a comprehensive study of the potential impact on patient access to transplantation and to work closely with stakeholders in conducting this evaluation.

Medicare alternative payment model incentive payments

The CMS is now issuing incentive payments to nearly 200,000 physicians and other health professionals who qualified for them through their participation in advanced Alternative Payment Models (APMs) during 2019. As required by the 2015 MACRA law, the lump sum incentive payments are set to equal 5% of the qualifying physicians' Medicare fee-for-service revenues. The AMA and others have long criticized the lengthy delay in making these payments, which in previous years were not distributed until the fall. This is the first time that they have been paid in the second quarter—a significant improvement, although still long after the APM participation period.

CMS has also published a list of about 7,600 physicians who are eligible to receive APM incentive payments based on their APM participation in 2019, but whom CMS has been unable to find in order to make the payments to them. The number with missing information is significantly fewer than in previous years. Physicians whose practices participated in APMs during 2019 but who have not yet received their lump sum incentive payment should review the list and follow the instructions for providing needed information to CMS to claim these payments. Even physicians who are no longer with the practice or whose group no longer participates in the APM may be entitled to payments based on their 2019 participation.

Additional information on the incentive payments is available in this fact sheet (PDF) and here (.ZIP).

DEA Final Rule supports increased mobile access to methadone

In a final rule (PDF), the U.S. Drug Enforcement Administration (DEA) has waived the requirement of a separate registration for a mobile "narcotic treatment programs (NTP)" to dispense controlled substances, including methadone, from the NTP's brick-and-mortar registration. The AMA urged DEA to finalize this rule last year (PDF), emphasizing that mobile NTPs would help increase access to evidence-based treatment for opioid use disorder in rural areas, underserved urban areas and also could improve access for those without stable housing or who are pregnant and postpartum.

In addition to supporting the AMA's arguments, the DEA also clarified several areas that will help increase access to care. This includes provisions authorizing a mobile component to serve multiple locations in a single day; specifically clarifying that "NTPs may operate mobile components at correctional facilities where otherwise permitted by law"; and that "[n]othing in this final rule prevents a mobile NTP from providing the same treatment as would be available at the registered NTP location, as long as the mobile NTPs follow all applicable Federal, State, local and tribal laws."

The AMA strongly encourages its state medical society partners to help in supporting implementation of mobile components consistent with the final rule, including state legislative and regulatory advocacy to help fund and maintain mobile NTPs.

Bipartisan house letter supports implementation of independent dispute resolution process

As the effort to curb unanticipated medical bills shifts from federal legislation to implementing regulations, nearly 100 bipartisan members of Congress wrote to the U.S. Departments of Health and Human Services (HHS), Treasury and Labor (PDF) on June 17 in support of a balanced, robust independent dispute resolution (IDR) process. More specifically, the letter led by Reps. Tom Suozzi (D-NY) and Brad Wenstrup (R-OH) urges these three departments to closely follow the statutory language within the No Surprises Act and issue regulations that require the certified IDR entity to analyze the unique circumstances of each out-of-network billing dispute and prevent any single statutorily mandated factor, such as the median in-network rate, from becoming the sole consideration.

The No Surprises Act was enacted in Dec. 2020 as part of the sweeping Consolidated Appropriations Act, 2021. Under the legislation, physicians and insurers have a limited time to first negotiate in good faith and resolve payments for out-of-network bills. In the event that physicians and health plans are unable to come to a mutual agreement amongst themselves, the legislation mandates that these billing disputes move to IDR.

The No Surprises Act also stipulates a number of factors that the certified IDR entity must consider—including provider training and quality of outcomes, median in-network rates, market share of parties, patient acuity or complexity of services, teaching status, case mix and scope of services in the facility, prior contracting history and efforts to negotiate in good faith. Physician billed charges and public payer rates, however, are explicitly excluded from consideration. Recognizing the unique circumstances facing each out-of-network billing scenario as opposed to defaulting to the median in-network rate ensures physicians receive more equitable treatment within the IDR process.

The letter from Reps. Suozzi and Wenstrup complements many of the same concepts touted in two AMA letters submitted to CMS in May (PDF) and June (PDF), respectively. Regulations related to the No Surprises Act are expected to be released as early as July 1.

AMA continues work to improve maternal health outcomes in the U.S.

In its continued dedication to fight for maternal health priorities, the AMA recently signed on to a letter (PDF) urging the highest possible funding for federal programs to improve maternal health in fiscal year 2022. More women die from pregnancy-related complications in the United States than in any other developed country and the rate of maternal deaths continue to rise. Furthermore, major disparities in maternal mortality exist, with Black women being three to four time more likely to die from pregnancy-related complications than white women. Providing strong and sustained funding for federal programs including the Title V Maternal and Child Health (MCH) Service Block Grant, Healthy Start, safe motherhood and infant health programs, and the National Institutes of Health is critical to addressing our nation's maternal health crisis.

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