Health Law Daily Wrap Up, TOP STORY—CMS gives physicians options for easing into MACRA Quality Payment Program, (Sep. 9, 2016)

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CMS will not require physicians to participate in the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (P.L. 114-10) Quality Payment Program in calendar year (CY) 2017 in order to avoid negative payment adjustments in 2019. Instead, CMS Acting Director Andy Slavitt announced that physicians will be offered four options for participation: testing the program, participating for part of CY 2017, participating for all of CY 2017, or participating in an advanced alternate payment model in 2017. CMS developed the options after receiving negative feedback on a Proposed rule (81 FR 28162, May 9, 2016) issued earlier in 2016 that would have required participation by all physicians for all of CY 2017. The agency plans to codify its plans via a Final rule to be released in November, but issued a statement outlining its intentions so doctors have time to prepare for 2017 participation.

Proposed rule. The Proposed rule would have required physicians to participate in the Merit-based Incentive Payment System during CY 2017. They would have received negative or positive payment adjustments based on four performance categories: quality (including six measures), advancing care information (including measures and objectives that could be customized to reflect the use of technology), clinical practice improvement activities, and cost. Alternatively, they could participate in Advanced Alternative Payment Models (APMs) and receive a lump sum incentive payment in lieu of an adjustment (see Physician reporting streamlined, less burdensome under flexible Quality Payment Program, April 28, 2016). Physicians and others expressed concern with the proposal, noting that it did not give doctors sufficient time to prepare and that requirements, particularly those relating to electronic health record (EHR) technology, could be burdensome (see CMS hears small practice MACRA concerns, pursuing compliance flexibility, July 13, 2016).

Four options. CMS listened to the concerns. While still requiring participation in the Quality Payment Program, it will allow doctors to choose from four methods of participation.

1. Testing the program. In this option designed to ensure that systems are working and prepare physicians for additional participation in 2018 and 2019, doctors submit "some data" from after January 1, 2017, to avoid a negative payment adjustment.

2. Partial CY 2017 participation. Physicians can qualify for a small positive payment adjustment if they submit information on quality measures, use of technology, and improvement measures, for a performance period that does not need to begin on January 1, 2017.

3. Full CY 2017 participation. Practices ready for full-year participation will be eligible for "modest" positive payment adjustments.

4. APM model participation. Physicians who join an APM model, such as Medicare Shared Savings Program (MSSP) Track 2 or Track 3, and who receive enough Medicare payments or see enough Medicare patients through that model can receive a 5 percent incentive payment in 2019.

Response. The American Medical Association (AMA) expressed strong support for the "thoughtful and flexible approach" which "better reflects the diversity of medical practices throughout the country."

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