CMS Final Rule: Inpatient Prospective Payment System (IPPS) for Fiscal Year (FY) 2023
Key Takeaways & Summary of Final Rule Policies

August 12, 2022

On August 1, 2022, the Centers for Medicare & Medicaid Services (CMS) issued the annual final rule to update the Fiscal Year (FY) 2023 Medicare payment and policies for the hospital inpatient prospective payment system (IPPS) and the long-term care hospital (LTCH) prospective payment system (PPS). You can find CMS's press release here, fact sheet here, and the final rule here. Additionally, you can find more information on the Medicare Promoting Interoperability (PI) Program website.

Key Takeaways & Summary of Finalized Policies

CMS finalized their proposals for changes to the scoring methodology for the electronic health record (EHR) reporting period in calendar year (CY) 2023 without any changes or modifications. Included in the final changes to the Medicare Promoting Interoperability (PI) Program for eligible hospitals and critical access hospitals (CAHs):

Beginning 2023

- Requirement to report on the Query of Prescription Drug Monitoring Program (PDMO) measure, beginning with the calendar year (CY) 2023 EHR reporting period;
- Three reporting options for the Health Information Exchange (HIE) Objective with the addition of a new Enabling Exchange under the Trusted Exchange Framework and Common Agreement (TEFCA) measure under the HIE Objective as a yes/no attestation measure, beginning with the calendar year (CY) 2023 EHR reporting period as an optional alternative to the three existing measures under the HIE Objective;
- Scoring modifications for the following objectives, beginning with the CY 2023 EHR reporting period:
  - ➢ Reduction of 40 points to 30 points for the HIE Objective
  - ➢ Increase from 10 points to 25 points for the Public Health and Clinical Data Exchange Objective
  - ➢ Reduction of 40 points to 25 points for the Provider to Patient Exchange Objective
- Institution of public reporting of certain Medicare PI Program data beginning with the CY 2023 EHR reporting period data.

Beginning 2024

- Addition of a new Antimicrobial Use and Resistance Surveillance (AUR) measure with requirement to report under the Public Health and Clinical Data Exchange Objective, beginning with the CY 2024 EHR reporting period;
- Addition of Severe Obstetric Complications electronic clinical quality measure (eCQM) and Cesarean Birth eCQM to the Medicare PI Program eCQM measure set for voluntary reporting in the CY 2023 reporting period and mandatory reporting starting with the CY 2024 reporting period and subsequent years;

- Addition of Hospital Harm-Opioid-Related Adverse Event eCQM and Global Malnutrition Composite Score eCQM to the Medicare Promoting Interoperability Program eCQM measure set on which hospitals can self-select to report beginning with CY 2024 reporting period; and
- Modification to the eCQM reporting and submission requirements under the Medicare PI Program to increase eCQM reporting from four eCQMs (one mandatory and three self-selected) to six eCQMs (three mandatory and three self-selected) beginning with the CY 2024 reporting period in alignment with finalized proposals in the Hospital Inpatient Quality Reporting (IQR) Program.

Use of Certified Technology

CMS noted that healthcare providers will not be required to demonstrate that they are using updated technology to meet the CEHRT definitions immediately upon the transition date of December 31, 2022. In accordance with the EHR reporting period and performance period established for the Medicare PI Program and the Merit-based Incentive Payment System (MIPS) PI performance category, participants are only required to use technology meeting the CEHRT definitions during a self-selected EHR reporting period or performance period of a minimum of any consecutive 90 days in CY 2023, including the final 90 days of 2023. The eligible hospital, CAH, or MIPS eligible clinician is not required to demonstrate meaningful use of technology meeting the 2015 Edition Cures Update until the EHR reporting period or performance period they have selected.

For ease of reference, there are two tables included in the final rule (located on pages 49344-49345). The first table lists the objectives and measures for the Medicare PI Program for the EHR reporting period in CY 2023 as revised to reflect the final policies established in this final rule. In another table (located on pages 49350-7) CMS added a column to indicate whether the measure that count unique patients or actions may be calculated by reviewing only the actions for patients whose records are maintained using CEHRT or must be calculated by reviewing all patient records. The second table lists the 2015 Edition certification criteria required to meet the objectives and measures.

Query of Prescription Drug Monitoring Program (PDMP) Measure

CMS finalized their proposal to: 1) require and modify the Electronic Prescribing Objective's Query of (PDMP measure while maintaining the associated points at 10 points beginning with the EHR reporting period in CY 2023; and 2) to expand the Query of PDMP measure to include Schedule II, III, and IV drugs beginning with the CY 2023 EHR reporting period.

Beginning with the EHR reporting period in CY 2023, CMS is requiring the Query of PDMP measure for eligible hospitals and CAHs participating in the Medicare PI Program. The description of the Query of PDMP measure provides that for at least one Schedule II opioid electronically prescribed using CEHRT during the EHR reporting period, the eligible hospital or CAH uses data from CEHRT to conduct a query of a PDMP for prescription drug history, except where prohibited and in accordance with applicable law.

While CMS proposed two exclusions, in the final rule – they added a third, temporary one year exclusion for eligible hospitals and CAHs. The final three exclusions are:

1) any eligible hospital or CAH that does not have an internal pharmacy that can accept electronic prescriptions for controlled substances that include drugs from Schedules II, III, and IV, and is not located within 10 miles of any pharmacy that accepts electronic prescriptions for controlled substances at the start of their EHR reporting period;
2) any eligible hospital or CAH that cannot report on this measure in accordance with applicable law; and

3) any eligible hospital or CAH for which querying a PDMP would impose an excessive workflow or cost burden prior to the start of the EHR reporting period they select in CY 2023.

CMS noted that they are finalizing the third exclusion related to workflow and cost burden on a timelimited basis for those eligible hospitals and CAHs that believe they would face significant burden associated with querying a PDMP at least once when reporting the measure during an EHR reporting period in CY 2023. This exclusion will no longer be available for EHR reporting periods after CY 2023. Additionally, CMS expects that those eligible hospitals and CAHs claiming this exclusion in 2023 will be able to utilize the additional time provided by this time-limited exclusion to resolve any remaining barriers to reporting the measure.

Public Health and Clinical Data Exchange Objective

Antimicrobial Use and Resistance (AUR) Surveillance Measure

In CHIME's comments in response to the proposed rule, we supported this proposed measure because of its importance to public health. However, CHIME requested that CMS delay the requirement of this measure by at least one year in order to allow providers sufficient time to ensure correct implementation and accurate measurement. CMS noted that they understood more time may be needed for health care providers and EHR vendors to implement the necessary changes in workflows, infrastructure and functionality to report the AUR Surveillance measure. Further, CMS recognized that more time may be beneficial for eligible hospitals and CAHs to implement the necessary infrastructure. Therefore, CMS has delayed the adoption of this measure by one year, so that it will be included in the Public Health and Clinical Data Exchange Objective and will be a required measure beginning with the EHR reporting period in CY 2024. Eligible hospitals and CAHs that report a "yes" response or an exclusion for which they are eligible will receive credit for reporting the "Transmission to public health agencies – antimicrobial use and resistance reporting" measure.

For the AUR Surveillance measure, CMS finalized the following three exclusions – as proposed – for eligible hospitals or CAHs: 1) does not have any patients in any patient care location for which data are collected by the Centers for Disease Control and Prevention's (CDC's) National Healthcare Safety Network (NHSN) during the EHR reporting period; 2) does not have electronic medication administration records (eMAR)/barcoded medication administration (BCMA) records or an electronic admission discharge transfer (ADT) system during the EHR reporting period; or 3) does not have an electronic laboratory information system (LIS) or electronic ADT system during the EHR reporting period.

Revisions to Active Engagement

CMS has finalized their proposal to consolidate current options 1 and 2 into a new combined option called Pre-production and Validation and renaming the current option 3 as Validated Data Production beginning with EHR reporting periods in CY 2023. CMS notes that their goal continues to be that all eligible hospitals and CAHs will be at the Validated Data Production option as successful exchange of data is needed because that is where that data can be utilized to combat current and future PHEs.

The proposed active engagement option 1: Pre-Production and Validation includes both the completion of registration to submit data with the public health agency (PHA) or clinical data registry (CDR), as applicable, and being in the process of testing and validation of the electronic submission of data. Upon receiving an invitation from the PHA or CDR to begin testing and validation, the eligible hospital or CAH should begin testing and validation, and CMS notes that they understand the validation process can

take some time. If, at any point in the process, an eligible hospital or CAH encounters a lack of readiness on the part of the PHA or CDR, the eligible hospital or CAH could consider whether it could report an exclusion for one or more of the measures associated with the Public Health and Clinical Data Exchange Objective.

CMS clarifies that to move from Active Engagement Option 1: Pre-production and Validation, to Active Engagement Option 2: Validated Data Production, the eligible hospital or CAH must finish validation. Validation is an effort to ensure that the data exchanged with a public health agency is high quality and useful, and meets the appropriate HL7 implementation guide standard. Only the PHA or CDR can confirm validation has been completed and a "production" state has been reached.

CMS has finalized their proposals to limit the amount of time an eligible hospital or CAH may spend at the pre-production and validation level of active engagement to one EHR reporting period with one modification – that this limitation will apply beginning with the EHR reporting period in CY 2024. CHIME opposed the time limitation proposals.

Additionally, CMS offers the following examples as ways an eligible hospital or CAH may demonstrate their level of active engagement:

- A dated report or screenshot from CEHRT that documents successful submission to the registry or PHA. The report should include evidence to support that it was generated for that eligible hospital's or CAH's system (for example, identified by CMS certification number [CCN] and eligible hospital or CAH) name or;
- A dated report or screenshot of successful registration or electronic transmission (for example, screenshot from another system, etc.). The report should include evidence to support that it was generated for that eligible hospital or CAH (for example, identified by CMS certification number [CCN] and eligible hospital or CAH name) or;
- A letter or email from a registry or PHA confirming registration. With respect to the recommendation to include an exclusion, CMS refers readers to the existing exclusions for each measure within the Public Health and Clinical Data Exchange Objective. For instances when there is an issue with the ability of a PHA or CDR to receive the data in the specific standards required to meet the CEHRT definition or where no PHA has declared readiness to receive data from eligible hospitals or CAHs, there are exclusions available for eligible hospitals and CAHs. While CMS recognizes that there may be variability in ability to quickly test and validate state to state, they believe that PHAs have been requiring transmission of electronic laboratory reporting, immunization registry reporting, and syndromic surveillance reporting for many years. To help address the existing variability, CDC is providing funding for PHAs to improve and modernize their data infrastructure, which will result in more rapid testing and validation. In addition, most eligible hospitals and CAHs are successfully reporting these measures.

Public Reporting of Medicare Promoting Interoperability Program Data

CHIME opposed CMS's proposal to publicly report the Medicare PI Program total points (score) of eligible hospitals and CAHs. However, CMS finalized their proposal to publicly report certain Medicare Promoting Interoperability (PI) Program data submitted by eligible hospitals and CAHs beginning with the EHR reporting period in calendar year (CY) 2023 (i.e., January 1, 2023).

On a "CMS website available to the public", they will publish the actual score of up to 105 points for each eligible hospital and CAH and the CMS EHR certification ID that represents the CEHRT used by the eligible hospital or CAH, beginning with the EHR reporting period in CY 2023. Eligible hospitals and CAHs will have the opportunity to review their data that CMS will publish during a 30-day preview

period, before the data are made public. Additionally, for publishing the PI Program data, CMS will follow their current policy and operational process for the Hospital IQR Program, which use the Hospital Quality Reporting (HQR) system (formerly, the QualityNet Secure Portal) for eligible hospitals and CAHs to access and review their data during the preview period before publication. CMS has finalized their proposal to also post the PI program data using the Compare tool hosted by the Department of Health and Human Services (HHS).

CMS noted that they appreciated commenters' recommendations to include explanations of what the Medicare PI Program score indicates, recommendations for the specific data points to publish in the future, and the recommendation to include a key for consumers alongside the publicly reported data allowing consumers to better understand the data. CMS noted that they may consider this feedback in future rulemaking.

Responses to Requests for Information (RFIs)

CMS issued several Requests for Information (RFIs) in the proposed rule. In the final rule, CMS's responses to the RFIs were generally that they while they appreciate the comments and suggestions received, "we [CMS] will not be responding to specific comments submitted in response to this RFI."

- Patient Access to Health Information Measure – Request for Information (RFI): CMS believes that this input is valuable in their efforts to continue to promote patient access to their health information, and may consider these suggestions in future rulemaking.

- TEFCA RFI: CMS plans to share all the input with the Office of the National Coordinator for Health Information Technology (ONC) and will take commenters' feedback into consideration in future policy development.