

February 20, 2019

## **CMS's proposed rule expands patient access to their health information and require hospitals to alert community providers when one of their patients is admitted, transferred or discharged.**

CMS under Administrator Verma has honed in on improving interoperability with a strong focus on easing patients' ability to access to their electronic data. This proposed rule requires certain payers to provide patients with access to their claims data, similar to the Blue Button 2.0 program, and requires a number of actions by providers to improve interoperability. CMS emphasizes that this is only a first step to advance interoperability and patient access and that they will be taking additional steps in the future.

### **Electronic Patient Event Notifications**

Starting January 1, 2021, CMS proposes to add a condition of participation that would require Medicare and Medicaid participating hospitals (including psychiatric hospitals and critical access hospitals (CAHs)) to send notifications of a patient's inpatient admission, discharge and/or transfer (ED notifications are not required) to providers that have an established care relationship with the patient that is relevant to the hospital encounter. The requirement is tied to notifications for treatment, care coordination, or quality improvement purposes only and applies to hospitals that have an EHR system that can generate an ADT.

To demonstrate compliance with this requirement a hospital must show its system:

- is fully operational and complies with all applicable law regarding the exchange of patient health information;
- is capable of using HL7 2.5.1 (other standards can be used to support the notification system, but it must at a minimum support 2.5.1);
- sends notifications that must include the required minimum patient health information;
  - The patient's basic demographic information
  - The name of the sending institution
  - Diagnosis (if not prohibited by applicable law)
    - CMS encourages providers to share more robust data than this as their system allows and as receiving systems can accept.
- sends notifications at the time of the patient's admission to the hospital and either immediately prior to or at the time of the patient's discharge and/or transfer from the hospital; and
- has an approach to determine with reasonable certainty the receipt of the notification.

## Payer Application Programming Interface (API) Requirements

CMS proposes to require Medicare Advantage (MA), Medicaid (both FFS and managed care), CHIP (both FFS and managed care), and Qualified Health Plans (QHPs) in the Federally-Facilitated Exchanges (FEEs) to deploy open APIs to make certain information available to patients. CMS generally leverages the API “without special effort” requirements that ONC proposed in the 21<sup>st</sup> Century Cures Implementation Rule, [see this summary for more information](#) on this requirement. MA and QHPs in the FEEs must comply by January 1, 2020. Medicaid and CHIP must comply by July 1, 2020.

CMS requires payers to make the following data available via the API using a combination of the U.S. Core Data for Interoperability (USCDI), HIPAA Administrative Simplification transaction, and Part D e-prescribing transaction standards:

1. adjudicated claims (including cost);
2. encounters with capitated providers;
3. provider remittances;
4. enrollee cost-sharing;
5. clinical data, including laboratory results (where available); and
6. provider directories and formularies (except for QHPs in the FEEs).

## Payer to Payer Data Exchange

Starting January 1, 2020, CMS proposes a requirement for MA, Medicaid and CHIP managed care plans, and QHPs in the FEEs to at the request of the patient share the patient’s data with another payer. Payers must respond to requests from a patient up to five years after their coverage ends. Covered payers that receive this data must also incorporate it into their system.

CMS allows payers to use multiple methods for the electronic exchange of this information, including use of APIs or an HIE. CMS seeks comments on if they should only allow FHIR based APIs to be used to meet this requirement. Payers are required to exchange the USCDI v1 only, not the broader data set required for the payer API requirement discussed above.

CMS also proposes to require these same plans to participate in a trusted health information exchange network that meets certain interoperability criteria:

1. The trusted exchange network must be able to exchange protected health information in compliance with all applicable state and federal laws across jurisdictions.
2. The trusted exchange network must be capable of connecting both inpatient and ambulatory EHRs.
3. The trusted exchange network must support secure messaging or electronic querying by and between patients, providers and payers.

## Provider Digital Contact Information

CMS has updated the National Plan and Provider Enumeration System (NPPES) to capture the digital contact information of providers (i.e. Direct address, FHIR server URL etc.). Today it can be difficult to find the digital contact information of another provider; CMS hopes that adding this information to NPPES, which is a publicly available data source, will address this information gap. Beginning the second half of 2020, CMS will publicly identify providers who have not submitted digital contact information in NPPES. CMS asks about other enforcement mechanisms they should consider, including making it a requirement for certain Medicare reporting programs such as MIPS or for program integrity purposes.

## Other

- **Information Blocking:** Providers that attest a no response to certain information blocking attestations will be publicly reported. Eligible Clinicians (ECs) who report no in the MIPS program will be reported on Physician Compare and fail the Promoting Interoperability performance category. Hospitals and CAHs that attest no under the Medicare Promoting Interoperability Program will be listed on a CMS website and fail to be meaningful users and face the associated negative payment adjustment. The 2019 EHR reporting period will be the first year this provision is applicable, and information on providers who attest no will be posted in late 2020.
- **Advancing Interoperability through Center for Medicare & Medicaid Innovation (CMMI) Models:** CMS intends to include specific interoperability requirements in future models CMMI tests. CMS also notes, CMMI may require participation in a trusted exchange network, meeting the same requirement for payers outlined above, in future models.
- **Trusted Exchange Framework and Common Agreement (TEFCA):** CMS mentions multiple times that in future rulemaking they will take further steps to ensure that facilities that are electronically capturing information are electronically exchanging that information with providers who have the capacity to accept it. CMS notes that they anticipate participation in TEFCA would be one option to meet this requirement.
- **Increased Medicare-Medicaid Data Sharing Frequency Requirements:** To support the administration of benefits to Medicare-Medicaid dually eligible patients, CMS is proposing to require Medicaid agencies to participate in the daily exchange of “buy-in” data with CMS by April 1, 2022 and to submit “MMA” data daily by April 1, 2022.
- **Requests for Information:** CMS includes requests for stakeholder feedback on steps they can take to improve patient matching and advance interoperability across the care continuum.

## How to Submit Comments

- Once the proposed rule publishes in the Federal Register it will be open for a 60-day public comment period. We will update this summary with a link to submit comments once it is available.

## About Audacious Inquiry and our Consultants

Audacious Inquiry (Ai) is an industry-shaping health information technology and policy company that provides bold solutions for connected healthcare. Nationally recognized in its work to facilitate health data interoperability, Ai is a trusted partner to CMS, ONC, state Hospital Associations and Medicaid agencies across the country; and, delivers a SaaS technology platform that is the catalyst for health information exchange across 10 states. By pioneering technology that enables statewide health information exchange, Ai is raising the bar for how health data is shared, managed, and protected. For more information, visit [ainq.com](http://ainq.com).

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Further questions?

- Please contact Kory Mertz at: [kmertz@ainq.com](mailto:kmertz@ainq.com).