

Section 10332 of the Affordable
Care Act
“Availability of Medicare Data for
Performance Measurement”

Stakeholder Listening Session
September 20, 2010

Background

- Numerous national, regional and local efforts focused on quality measurement and improvement in recent years
- Significant interest in use of Medicare data for provider performance measurement purposes

Listening Session Agenda

- Background, Statutory Overview and Implementation Timeline
- Eligibility Criteria for QEs
- Measure Selection
- Data Extraction and Distribution
- Data Privacy and Security
- Interaction with other CMS Measurement Efforts

Purpose of Today's Session

- Receive input from potential stakeholders on key components of the design of the program, including:
 - types of organizations interested in receiving data under this provision and the necessary qualifications for such organizations to operate successfully;
 - Medicare claims data elements required and sources of other claims data;
 - challenges in calculating and reporting provider performance measures; and
 - privacy protection issues.

Overview of Section 10332 and Timeline for Implementation

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Overview of the Statute

- QE Definition
 - A public or private entity that is qualified (as determined by the Secretary) to use claims data to evaluate the performance of providers of services and suppliers on measures of quality, efficiency, effectiveness, and resource use.
- Fees
 - Data shall be made available to a QE at a fee equal to the cost of making such data available. Fees shall be deposited into the Federal Supplementary Medical Insurance Trust Fund.

Overview of the Statute

- Data Extraction and Distribution:
 - QEs will receive standardized extracts (as determined by the Secretary) of Medicare claims data under parts A, B and D.
 - QEs may request data for specific geographic area(s) and time period(s).
- Use of Data:
 - Statute provides for different classifications of measures to evaluate provider and supplier performance.
 - Medicare data must be combined with claims data from other sources.

Overview of the Statute

- Reports
 - Meet a variety of criteria around transparency of measurement methods.
 - Prior to release, the format of reports be submitted to the Secretary.
 - Prior to public release, be made available confidentially to providers or suppliers to be identified in a report, and provide an opportunity for appeal.
 - Only include information in an aggregate form, as determined appropriate by the Secretary.

Overview of the Statute

- Data Privacy and Security:
 - The Secretary shall take such actions as necessary to protect the identity of individuals entitled to or enrolled for benefits under Parts A, B and D.
 - The Secretary will determine requirements for ensuring security of the data.
 - Data shall not be subject to discovery or admission as evidence in judicial or administrative proceedings without the consent of the applicable provider or supplier.

Proposed Implementation Timeline

- Publish Notice of Proposed Rule Making in spring 2011.
- Publish final rule in fall 2011.
- Publish Privacy Act System of Records notice in fall 2011.
- Effective January 1, 2012.

Eligibility Criteria, Application Process, and Report Requirements for Qualified Entities (QEs)

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Statutory Requirements

A qualified entity must:

- Submit a description of the methodologies it will use to evaluate the performance of providers and suppliers;
- Use standard/endorsed measures, or alternative measures if the Secretary so determines;
- Include data made available under this subsection with claims data from other sources in the evaluation of performance of providers of services and suppliers;
- Only include information on the evaluation of performance of providers and suppliers in the reports described in subparagraph (C) of section 10332;

Statutory Requirements (cont.)

- Receive prior review by the Secretary of the format of proposed reports;
- Include in the reports an understandable description of the measures, risk adjustment methods, physician attribution methods, other applicable methods, and data specifications and limitations;
- Make the information available confidentially, to any identified provider or supplier, prior to the public release of such report;
- Make data (received from CMS under this section) available to a provider or supplier if requested; and
- Only include information on a provider of services or supplier in aggregate form.

Potential Criteria for QEs

Demonstrated experience in:

- Using Medicare and other claims data sources
- Accurately combining claims data from multiple sources
- Safeguarding patient identifiable information (if necessary)
- Performance measure calculation and reporting including all the risk adjustment, attribution, and other issues mentioned in statute
- Engaging with providers/other stakeholders for performance reporting and improvement purposes

Potential Application Process

- HHS develops an application package specifying the criteria needed.
- HHS establishes periodic closing dates for submission of applications.
- HHS reviews applications for compliance with requirements.
- Applicants that meet the requirements sign a Data Use Agreement (DUA) providing assurances to protect confidential data, etc.
- After DUA is signed, QEs can request Medicare claims data from CMS.

Statutory Requirements Regarding Reports

- QEs will report on the performance of providers of service and suppliers including:
 - description of the measures,
 - rationale for the use of alternative measures,
 - risk adjustment methods,
 - provider attribution methods, and
 - data specifications and limitations.
- Prior to the release of such reports, the QEs will provide an opportunity to the identified providers to review the results and appeal to the QEs to correct errors.

Questions

- What specific eligibility criteria should QEs be subject to?
- What information and level of detail should be collected on QE applications?
- What types of organizations are interested in participating in as a QE under Section 10332?
- What process will HHS use for ongoing monitoring of QEs to ensure compliance with requirements in the statute?

Questions

- Should there be any federal standards regarding the appearance, format, content and/or structure of reports generated by QEs?
- What should the requirements for the appeals process be?
- How frequently will QE reports be generated and how long will reports be valid?
- How will reports be used to communicate to providers in a way that brings about behavioral changes?

Measure Selection

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Statutory Requirements Regarding Measure Selection

- QEs may use standard measures, such as
 - Measures endorsed by the entity with a contract under section 1890(a) of the Social Security Act and
 - Measures developed pursuant to section 931 of the Public Health Service Act.

Exception

- A QE can use alternative measures if the Secretary, in consultation with appropriate stakeholders, determines that use of such alternative measures would be more
 - valid,
 - reliable,
 - responsive to consumer preferences,
 - cost-effective, or
 - relevant to dimensions of quality and resource use not addressed by such standard measures.

Data Sources for Measure Calculation

- QEs can receive standardized extracts of Part A, B and D Medicare claims.
- QEs must combine Medicare claims with claims data from other sources.
- This restricts the universe of potential measures to those that can be calculated using claims data.

Questions

- What types of measures are appropriate for use by QEs in performance reports?
 - Should alternative measures be approved?
 - If not, why not?
- What should the process be for approving and using alternative measures?
- For endorsed measures, how much flexibility, if any, should QEs be given to modify measure specifications in the implementation of the measures?
- What data fields from claims are necessary for QEs to calculate measures?

Data Extraction and Distribution

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Statutory Requirements Regarding Data Extracts

- Qualified Entities (QEs) will receive standardized extracts of Medicare claims data from Parts A, B, and D to develop provider performance measurements.
- These data will include items and services furnished under Medicare for one or more specified geographic areas and time periods requested by the QE.

Potential CMS Data Dissemination Process

- Approved QEs will request area(s) and time period(s) for Medicare claims data.
- QEs must include other claims data in their evaluation.
- QEs must protect the identity of individual Medicare beneficiaries and the security of the data.
- QEs must reimburse CMS for the cost of producing standardized extracts of Medicare claims data.
- QEs will receive standard extracts.

Questions

- What types of claims data extracts are necessary for QEs to produce performance reports?
- Will QEs need claims data for areas other than the geographic region they serve?
- What type of beneficiary and provider identifiers would potential QEs need to calculate measure results?
- What other claims data sources are appropriate for use with Medicare claims extracts in producing performance reports?
- How much additional claims data should be required of QEs for use with Medicare claims extracts in producing performance reports?
- What documentation should be required for data requests?
- What is the anticipated frequency of data requests by QEs?
- What is the expiration of the use of the data?

Data Privacy and Security

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Statutory Requirements for Data Privacy and Security

- The Secretary shall take such actions as the Secretary deems necessary to protect the identity of beneficiaries
- QEs agree to meet the requirements ensuring security of the data

Privacy & Security

- In implementing ACA 10332, CMS will take steps to follow all established statutes, laws, regulations and policies governing the privacy and security of beneficiary personally identifiable information (PII) that is disclosed to QEs by CMS.

Potential Ways to Protect CMS Data

Typically CMS requires those to whom we release data to agree to the following through a DUA:

- To establish appropriate administrative, technical, and physical safeguards to protect the security of the data and to prevent unauthorized use or access .
- Not to disclose beneficiary PII except as permitted in DUA.
- Not to use the data for other (unauthorized) purposes.
- To destroy data at the end of the DUA.
- Not to disclose direct findings or products if beneficiaries can be identified.

Potential Privacy Requirements for QE Applications

- In its application to CMS, candidate QEs should be prepared to explain their plans, policies and safeguards related to privacy and protection of beneficiary PII.

Questions

- How will QEs protect beneficiary identifiable information?
- How will QEs protect beneficiary identities in the reports and in the appeals process?
- What concerns do QE, provider, consumer and other stakeholder groups have related to privacy and protection of confidential data?

Interaction of Section 10332 with other CMS measurement efforts

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Existing CMS Performance Measurement Efforts

- CMS currently operates many different performance measurement programs that report results to providers and suppliers
 - Hospital, Nursing Home, Home Health Compare
 - Physician Quality Reporting Initiative, GPRO
 - Hospital Inpatient Quality Reporting Program
 - Meaningful Use

ACA-Mandated CMS Performance Measurement Efforts

- Section 3003: Improvements to the Physician Feedback Program
 - Expands the existing physician resource use report program and calls for the development of public domain episode grouper which, starting in 2012, would be used to provide confidential reports to physicians measuring their resources for an assigned number of beneficiaries.
- Section 3007: Value-Based Payment Modifier
 - Establishes a value-modifier starting in 2015 under which physicians' Medicare fee schedule payments will be adjusted by their combined performance on selected quality and resource use measures.

ACA-Mandated CMS Performance Measurement Efforts

- Section 3022: Medicare Shared Savings Program
 - In order to qualify for shared savings payments, Accountable Care Organizations (ACOs) must meet certain quality performance standards, as defined by the Secretary, and reduce overall costs for their assigned population.
- Section 10331: Public Reporting of Performance Information
 - Requires CMS to establish a Physician Compare website with
 - 1) information on physicians enrolled in the Medicare program and other eligible professionals who participate in PQRI and
 - 2) information on physician performance.

Questions

- What are the implications of multiple measurement efforts targeting the same providers?
- How will the claims-based measures calculated under Section 10332 interact with the meaningful use provisions in the Health Information Technology for Economic and Clinical Health (HITECH) Act?