



December 19, 2016

TO: Centers for Medicare and Medicaid Services, HHS

RE: CMS-5517-FC

These are brief comments from Citizens' Council for Health Freedom on the *Medicare Program: Merit-Based Incentive Payment System and Alternative Payment Model Incentive under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models*.

DOCTORS AS INSURERS: This 2,398-page rule imposes government control on the practice of medicine. It will harm patients, limit access to care, turn doctors into "insurers," forcing them to bear more and more of the financial risks of their patients.

GOVERNMENT CONTROL: The rule imposes controls over patient care through "payment reform." These payment controls do not appear limited to Medicare, but could be phased in throughout the entire health care system and used by managed care plans to control physician treatment decisions within the private sector, encouraging doctors to become rationing agents of government and health plans in violation of longstanding ethical and professional principles of medicine.

Physicians will be paid for compliance with the government's definitions of "quality," "resource use" and "clinical improvement" activities as well as use of the government-imposed electronic medical record for reporting and other government-preferred activities that violate the patient's privacy and the confidentiality of the patient-doctor relationship.

UNAWARE: According to a Deloitte survey in July 2016, HALF of the surveyed physicians have never even heard of the April 2015 law. How many of them read the proposed rule? How many even know that there's a 2,398-page rule to read and comment on by the end of today?

Yet this final rule will impact every physician that cares for even one Medicare patient. HHS reports that "more than 4000" comments were submitted on the proposed rule and "more than 100,000 physicians and OTHER stakeholders" attended the outreach sessions. That's a drop in the bucket for a payment system that is intended to upend how doctors are paid. Of the 4,000 and the 100,000, how many practicing physicians actually commented or came to these sessions? How many even knew? How many are still clueless today?

HARMS SMALL PRACTICES: The proposed rule specified the massive harm that smaller practices would experience. The one-year delay in the final rule will only slow down the harm. How many patients will lose their doctors? How many doctors will give up private practice? How many doctors will retire early? How many doctors will simply become employees of hospitals and huge health care systems that will tell them how to practice medicine (standardized treatment protocols on computer systems) or be penalized?

The rule is meant to end the private practice of medicine and consolidate the entire industry into large, bureaucratic, compliant players willing to work with government. This will lead to the complete centralization and socialization of the practice of medicine. The financial impact will be dire.

BIG GUYS WIN: Do physicians realize they could be getting 18% lower fees than those physicians that comply with all the rule's reporting and EMR requirements. These requirements are complex and too expensive for small practices. Furthermore, since the payment system must be budget neutral, he who has the best data wins. The data reporting divisions in large health systems will allow the systems to get paid more, using dollars taken away from "the little guys" (small practices). The difference between payments can be as high as 18%. Those that don't comply, or have insufficient data could see their payments cut 9% while the doctor in a big health care system next door get a 9% increase on every Medicare patient.

UNETHICAL: Government should not pit doctors against each other, and doctors against their patients. Pity the doctor that takes care of patients that require high resource use and keep the doctor's "quality" scores low. Will doctors eventually become discriminatory toward their patients in order to save their own financial skin? This would be a disaster for the best health care system in the world and a danger to vulnerable patients.

The survey also found nearly 80% of physicians want to be paid using a fee-for-service model (like most other American workers are paid), but this final rule sets up a system where doctors are paid not for the services they render or the time they spend assessing, diagnosing, and treating patients, but for their "value" and their "compliance" as defined and determined by the federal government.

This final Medicare MACRA rule imposes outside controls on physicians and medical treatment, encouraging doctors to limit resources used in the care of patients. Doctors will be scored and paid based on their behavior, not their skill, critical thinking, expertise, talent or time.

RESCIND THE RULE:

MACRA's payment controls are a bad deal for patients and an unethical quagmire for physicians. Rescind the entire rule.

Sincerely,

Twila Brase, RN, PHN
President and Co-founder