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New Rules Are Seen as Collective Shift From Requirements; Opioid Law Is Another Story

By Nina Youngstrom

Between three final Medicare payment regulations and a comprehensive law to combat the opioid crisis that came down in the past two months, hospitals, physicians and other providers were served up significant changes to payment and documentation requirements, adjustments in quality measures and new opportunities in telehealth.

“The theme of this year’s rules was removing administrative and regulatory requirements as reflective of a macro shift in policy, except for opioids, where there is growth in policy,” said Minneapolis attorney Pari McGarraugh, with Fredrikson & Byron, at a webinar sponsored by the law firm. Between the outpatient prospective payment system (OPPS), the inpatient prospective payment system (IPPS) and the Medicare Physician Fee Schedule (MPFS), CMS finalized blended physician payments for CPT code levels two through four (although it’s delayed), implemented site-neutral payments for off-campus provider-based departments, expanded telehealth coverage, reduced documentation requirements and made other substantive policy changes. Congress also enacted the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) Act, which was signed by President Trump on Oct. 24 (RMC 10/29/18, p. 5).

“There were more material changes this year, but uncharacteristically, a lot of them were elimination of regulatory quirks that were best eliminated,” said attorney David Glaser, with Fredrikson & Byron, on the webinar. “CMS got rid of some unintended consequences.” For example, the OPPS regulation deleted three pain-related questions from the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS), a patient survey that’s part of the Inpatient Quality Reporting (IQR) program. If patients report pain, physicians and hospitals essentially get a demerit, and some hospitals use HCAHPS scores in evaluating physicians, which can affect compensation, he said. “There was a focus on avoiding pain, but people now realize that created an incentive to prescribe opioids, so CMS removed patient pain questions from HCAHPS,” Glaser said. “It shows when you measure something, it drives behavior.”

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