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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS-3321-NC2]

Medicare Program; Request for Information Regarding Implementation of the Merit Based Incentive Payment System, Promotion of Alternative Payment Models, and Incentive Payments for Participation in Eligible Alternative Payment Models

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Request for information; extension of comment period.

SUMMARY: This document extends the comment period for the October 1, 2015 document entitled “Request for Information Regarding Implementation of the Merit-based Incentive Payment System, Promotion of Alternative Payment Models, and Incentive Payments for Participation in Eligible Alternative Payment Models” (80 FR 59102, referred to in this document as “the October 1 RFI”). The comment period for the October 1 RFI, which would have ended on November 2, 2015, is extended for an additional 15 days. This document also advises the public and stakeholders of CMS priorities for the information sought in the October 1 RFI, and suggests that commenters may choose to focus their attention and comments accordingly.

DATES: The comment period for the October 1, 2015 RFI (80 FR 59102) is extended to November 17, 2015. To be assured consideration, written or electronic comments on the

October 1, 2015 RFI must be received at one of the addresses provided below no later than November 17, 2015.

ADDRESSES: In commenting on the October 1, 2015 RFI, please refer either to file code CMS-3321-NC and comment as indicated in that document (80 FR 59102) or refer to file code CMS-3321-NC2 and comment as provided here. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.
2. By regular mail. You may mail written comments to the following address ONLY:
Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-3321-NC2,
P.O. Box 8016,
Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-3321-NC2,

Mail Stop C4-26-05,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

4. By hand or courier. Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC--
Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Room 445-G, Hubert H. Humphrey Building,
200 Independence Avenue, SW.,
Washington, DC 20201

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD--
Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments. Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

FOR FURTHER INFORMATION CONTACT:

Molly MacHarris, (410) 786-4461

Alison Falb, (410) 786-1169

SUPPLEMENTARY INFORMATION:

On October 1, 2015, we published a request for information in the **Federal Register** (80 FR 59102) entitled, “Request for Information Regarding Implementation of the Merit-based Incentive Payment System, Promotion of Alternative Payment Models, and Incentive Payments for Participation in Eligible Alternative Payment Models” (referred to in this document as “the October 1 RFI”). Section 101 of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) repeals the Medicare sustainable growth rate (SGR) methodology for updates to the physician fee schedule (PFS) and replaces it with a new Merit-based Incentive Payment System

(MIPS) for MIPS eligible professionals (MIPS EPs) under the PFS. Section 101 of the MACRA (Pub. L. 114-10, enacted April 16, 2015) sunsets payment adjustments under the current Physician Quality Reporting System (PQRS), the Value-Based Payment Modifier (VM), and the Electronic Health Records (EHR) Incentive Program. It also consolidates aspects of the PQRS, VM, and EHR Incentive Program into the new MIPS. Additionally, section 101 of the MACRA promotes the development of Alternative Payment Models (APMs) by providing incentive payments for certain eligible professionals (EPs) who participate in APMs, by exempting EPs from the MIPS if they are qualifying APM participants, and by encouraging the creation of physician-focused payment models (PFPMs). In the request for information, we seek public and stakeholder input to inform the implementation of these provisions.

We have received inquiries from national organizations regarding the 30-day comment period we provided for the October 1 RFI. The organizations stated that they need additional time to respond as a result of the number and depth of questions posed in the October 1 RFI. Since we requested the public to comment on various aspects of MIPS and APMs, we believe that it is important to allow ample time for the public to prepare comments regarding the October 1 RFI. Therefore, we have decided to extend the comment period for an additional 15 days. This document announces the extension of the public comment period to November 17, 2015.

While we continue to welcome comments on all questions asked in the October 1 RFI, we suggest that the public and stakeholders may choose to focus their attention on issues that are a higher priority for CMS. To assist commenters in considering and formulating their comments on the October 1 RFI, we identify the following sections and questions, which we have categorized in descending order of priority for CMS.

- For Section II, Subsection A (The Merit-Based Incentive Program System

(MIPS)) of the request for information, each component (sub-subsection) under Subsection A has been prioritized by the following categories, in which all questions listed in the October 1 RFI that are within each component correspond to the specified priority category.

- Priority Category One:
 - Sub-Subsection 1 (MIPS EP Identifier and Exclusions)
 - Sub-Subsection 3 (Quality Performance Category)
 - Sub-Subsection 4 (Resource Use Performance Category)
 - Sub-Subsection 5 (Clinical Practice Improvement Activities Performance Category)
 - Sub-Subsection 6 (Meaningful Use of Certified EHR Technology Performance Category)
- Priority Category Two:
 - Sub-Subsection 2 (Virtual Groups)
 - Sub-Subsection 8 (Development of Performance Standards)
 - Sub-Subsection 12 (Feedback Reports)
- Priority Category Three:
 - Sub-Subsection 7 (Other Measures)
 - Sub-Subsection 9 (Flexibility in Weighting Performance Categories)
 - Sub-Subsection 10 (MIPS Composite Performance Score and Performance Threshold)
 - Sub-Subsection 11 (Public Reporting)
- For Section II, Subsection B (Alternative Payment Models) of the October 1 RFI, the

following questions have been prioritized.

- Priority Category:
 - How should CMS define “services furnished under this part through an EAPM entity”?
 - What types of data and information can EPs submit to CMS for purposes of determining whether they meet the non-Medicare share of the Combination All-Payer and Medicare Payment Threshold, and how can they be securely shared with the federal government?
 - What criteria could the Secretary consider for determining comparability of state Medicaid medical home models to medical home models expanded under section 1115A(c) of the Act?
 - Which states’ Medicaid medical home models might meet criteria comparable to medical homes expanded under section 1115A(c) of the Act?
 - How should CMS define “use” of certified EHR technology as defined in section 1848(o)(4) of the Act by participants in an APM? For example, should the APM require participants to report quality measures to all payers using certified EHR technology or only payers who require EHR reported measures? Should all professionals in the APM in which an EAPM entity participates be required to use certified EHR technology or a particular subset?
 - What criteria should be used by the Physician-focused Payment Model Technical Advisory Committee for assessing PFPM proposals submitted by stakeholders? We are interested in hearing suggestions related to the criteria

discussed in this RFI as well as other criteria.

- What are examples of methodologies for attributing and counting patients in lieu of using payments to determine whether an EP is a qualifying APM participant (QP) or partial QP?
- What is the appropriate type or types of “financial risk” under section 1833(z)(3)(D)(ii)(I) of the Act to be considered an eligible APM (EAPM) entity?
- What is the appropriate level of financial risk “in excess of a nominal amount” under section 1833(z)(3)(D)(ii)(I) of the Act to be considered an EAPM entity?
- What criteria could be considered when determining “comparability” to MIPS of quality measures used to identify an EAPM entity? Please provide specific examples for measures, measure types (for example, structure, process, outcome, and other types), data source for measures (for example, patients/caregivers, medical records, billing claims, etc.), measure domains, standards, and comparable methodology.

CMS-3321-NC2

Dated: October 14, 2015

Andrew M. Slavitt,

Acting Administrator,

Centers for Medicare & Medicaid Services.

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