

One Minute Memo®



CMS Publishes Final Rule to Cancel Medicare Episode Payment and Cardiac Rehab Incentive Payment Models, and to Cut Back Joint Replacement Model

By William B. Eck

This is the first in a series of alerts from Seyfarth's [Health Law](#) practice highlighting significant changes in health care regulations and policy as providers and other industry participants enter 2018.

On December 1, 2017, the Centers for Medicare and Medicaid Services (CMS) published a final rule to cancel Medicare's hospital Episode Payment Models (EPMs) and Cardiac Rehabilitation (CR) incentive payment models, and to rescind the related Obama-era regulations. In addition, CMS revised certain aspects of the Comprehensive Care for Joint Replacement (CJR) model. The CJR changes reduce the number of mandatory hospital participants in CJR by approximately one-half, and create a one-time voluntary option to participate in CJR for hospitals whose participation was mandatory but is voluntary under the new rule. The opt-in also applies to rural hospitals and low volume hospitals in the MSAs to which CJR applies.

EPMs and CR

CMS had previously established three bundled payment models for acute myocardial infarction, coronary artery bypass graft, and surgical hip/femur fracture treatment. As noted, CMS has cancelled these models. CMS concluded, based on stakeholder feedback, that certain aspects of the design of the EPMs and CR incentive payment model should be improved and more fully developed prior to the start of the models, and to start the models as previously scheduled would not be in the interest of providers or beneficiaries.

CJR

Under the final rule, the CJR model would continue on a mandatory basis in approximately half of the originally selected MSAs (that is, 34 of the 67 selected areas) with an exception for low-volume and rural hospitals, and continue on a voluntary basis in the other areas (that is, 33 of the 67 areas). The mandatory and voluntary MSAs are listed in the December 1, 2017 *Federal Register* at pages 57076-57079. Low-volume and rural hospitals, and hospitals located in a voluntary MSA, may opt in to CJR on a one-time basis from January 1, 2018 through January 31, 2018.

Finally, CMS published in this rule a final rule with comment period allowing for CJR payment adjustments for hospitals affected by extreme and uncontrollable circumstances. In general, these are hospitals located in declared disaster areas. Examples given by CMS include areas impacted by Hurricanes Harvey, Irma and Nate, and the recent California wildfires. Hurricane Maria was not mentioned because there are no CJR hospitals in Puerto Rico. The new rule allows for a CJR payment increase for hospitals affected by these circumstances.

Hospitals for which CJR participation is no longer mandatory (as well as rural and low-volume hospitals) should assess, as soon as possible, whether it is advantageous to opt in to CJR.

Comments on this final rule with comment period are due by 5:00 p.m., January 30, 2018.

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