Summary of CMS Proposed Rule to Cancel Cardiac and Expanded Joint Replacement Models

As a result of ongoing advocacy efforts by NAACOS, on August 15, 2017 the Centers for Medicare & Medicaid Services (CMS) released a proposed rule to cancel the Episode Payment Models (EPMs) and the Cardiac Rehabilitation (CR) Incentive Payment Model, which were scheduled to begin on January 1, 2018 and reduce the number of mandatory geographic areas participating in the Center for Medicare and Medicaid Innovation's (Innovation Center) Comprehensive Care for Joint Replacement (CJR) Model from 67 to 34. In addition, CMS proposes to allow CJR participants in the 33 remaining areas to participate on a voluntary basis. In this rule, CMS also proposes to make participation in the CJR model voluntary for all low volume and rural hospitals in all of the CJR geographic areas. Below is an overview of the key provisions of the proposed rule affecting ACOs. For more information on the originally issued EPM rule and CJR rules, please visit our website.

Cardiac EPM

CMS proposes to cancel the Cardiac Episode Payment Models scheduled to take effect Jan. 1, 2018 as well as the corresponding CR Incentive Payment Model. Instead, CMS notes its plans to develop new voluntary bundled payment model options during calendar year (CY) 2018. In particular, CMS plans to build on the existing Bundled Payments for Care Improvement (BPCI) Model run by the Innovation Center. CMS also notes stakeholder support for the CR Incentive Payment Model and notes this model is being considered as the basis for a potential new, voluntary initiative in the future.

NAACOS has repeatedly urged CMS to eliminate mandatory bundled payment models and to exclude all ACO beneficiaries from bundles unless a collaborative agreement exists between the bundler and the ACO. While NAACOS is pleased to see CMS cancel these mandatory programs, we still have concerns regarding the overlap of ACO and voluntary bundled payment model patients. Therefore, it is critical that CMS modify its current policy to exclude these ACO patients from voluntary bundles. NAACOS will continue its advocacy efforts with the administration.

CJR Model Changes

The CJR Model began on April 1, 2016. The CJR Model is currently in the second performance year, which includes episodes ending on or after January 1, 2017 and on or before December 31, 2017. The third performance year, which includes all CJR episodes ending on or after January 1, 2018 and on or before December 31, 2018, would incorporate episodes beginning before January 1, 2018. The fifth, and last, performance year would end on December 31, 2020. Currently, with limited exceptions, hospitals located in the 67 geographic areas selected for participation in the CJR Model must participate in the model through December 31, 2020 and their participation in the CJR Model is mandatory unless the hospital is an episode initiator for a lower extremity joint replacement (LEJR) episode in the risk-bearing period of Models 2 or 4 of the BPCI initiative.

In this rule, CMS proposes that the CJR Model would continue on a mandatory basis in 34 of the 67 selected geographic areas with an exception for low-volume and rural hospitals, and it would continue on a voluntary basis in the remaining regions. CMS would continue its policy to also exclude certain hospitals that participate in the BPCI initiative. Therefore, CMS proposes that hospitals in the proposed 33 voluntary participation metropolitan statistical areas (MSAs) and hospitals that are low-volume or rural (as defined in CFR §510.2) would have a one-time opportunity to notify CMS, in the form and manner specified by CMS, of their election to continue their participation in the CJR Model on a voluntary basis (opt-in) for performance years three, four, and five. Those that do not choose to opt-in would be withdrawn from the CJR Model. Tables 1–3 in the proposed rule (pages 39315-39317) list the CJR mandatory and voluntary participation MSAs as well as low-volume hospitals located in mandatory MSAs eligible for opt-in during the voluntary election period. CMS also provides an overview of proposed participation requirements for hospitals in the CJR Model in Table 4 (page 39319).

Finally, CMS clarifies that it does not propose to change the amendments to §510.305 and §510.315 that became effective May 20, 2017 per the final EPM rule. More information on the final EPM rule is available in our NAACOS EPM Final Rule Summary. For more details on the CJR program criteria, access our CJR Program Overview.

Recognizing Affiliated Providers for Purposes of the Quality Payment Program (QPP)

To increase opportunities for eligible clinicians supporting CJR Model participant hospitals by performing CJR Model activities and who are affiliated with participant hospitals to be considered Qualifying Participants (QPs) in the QPP, CMS proposes that each physician, non-physician practitioner, or therapist, who is not a CJR collaborator during the period of the CJR Model performance year specified by CMS but who does have a contractual relationship with the participant hospital based at least in part on supporting the participant hospital's quality or cost goals under the CJR Model during the period of the performance year specified by CMS, would be added to a clinician engagement list. CMS would use these lists to develop Affiliated Practitioner Lists used for purposes of making QP determinations.

According to CMS, this proposal would broaden the scope of eligible clinicians who are considered Affiliated Practitioners under the CJR Model to include those without a financial arrangement under the CJR Model but who are either directly employed by or contractually engaged with a participant hospital to perform clinical work for the participant hospital when that clinical work, at least in part, supports the cost and quality goals of the CJR model.

CMS proposes that each participant hospital in the Advanced Alternative Payment Model (APM) track of the CJR Model would submit a clinician engagement list in a form and manner specified by CMS on a no more than quarterly basis. For each physician, non-physician practitioner, or therapist who is not a CJR collaborator during the performance period but who does have a contractual relationship with a participant hospital, based at least in part on supporting the participant hospital's quality or cost goals under the CJR Model during the period of the CJR Model performance year specified by CMS, the list would include the following information on eligible clinicians for the period of the CJR Model performance year specified by CMS:

- The name, TIN, and NPI of the individual
- The start date and, if applicable, the end date for the contractual relationship between the individual and participant hospital

If no individuals meet the requirements to be reported, the participant hospital must attest in a form and manner required by CMS that there are no individuals to report. Additionally, hospitals must maintain copies of their clinician engagement lists and supporting documentation (i.e., copies of employment letters or contracts) of their clinical engagement lists submitted to CMS.