Medicaid and CHIP Managed Care Final Rule (CMS-2390-F)

Implementation Dates

Center for Medicaid and CHIP Services

Key Dates and Resources

- Publication of Final Rule
  - On display at the **Federal Register** on April 25th
  - Published in the **Federal Register** May 6th (81 FR 27498)
- Effective Date of the Final Rule is July 5, 2016
- Medicaid.gov – Landing and Managed Care Pages
  - Link to the Final Rule
  - 8 fact sheets and implementation timeframe table
  - Link to the CMS Administrator's "Medicaid Moving Forward" blog
- ManagedCareRule@cms.hhs.gov to submit questions on the final rule

Topics for Today's Presentation

- Provisions starting:
  - May 6, 2016
  - July 5, 2016
  - July 1, 2018
- Relevance of the Rating Period
- Provisions for rating period for contracts starting on or after
  - July 1, 2017
  - July 1, 2018
  - July 1, 2019
- Provisions starting after CMS guidance, protocols or notice
- Discussion of Continuation of 2002 Regulations
- CHIP provisions

May 6, 2016

- **438.370 and 431.15(b)(10):** Federal Financial Participation for External Quality Review Activities
  - FFP at the 75 percent rate will be available only for EQR (including the production of EQR results) and EQR-related activities performed on MCOs and conducted by qualified EQROs and their subcontractors
  - FFP at the 50 percent match rate will be available for EQR and EQR-related activities performed on entities other than MCOs (including PIHPs, PAHPs, PCCM entities, or other types of integrated care models) or performed by entities that do not meet the requirements of an EQRO

Effective Date – July 5, 2016

There are a number of provisions that States must comply with as of the Effective Date—**July 5, 2016**—of the Final Rule.

- Many of these provisions were unchanged from the 2002 rule
  - We note that a number of the citations changed from provisions in the 2002 rule; we will not require contracts to be updated to reflect the new citations
- New Provisions of note include:
  - **438.3(a) and 438.7(a):** CMS review and approval of contracts and rate certifications
  - **438.3(e):** In-Lieu-of-Services Generally
  - **438.4(b)(1):** Differences in amount of capitation rates per rate cell must be based on valid rating factors
  - **438.4(b)(5):** Payments rom any rate cell must not cross-subsidize or be cross-subsidized by payments from any other rate cell
  - **438.6(e):** Capitation Payments to MCOs and PIHPs for Enrollees with a Short Term Stay in an IMD

July 1, 2018

Managed Care Quality Strategy and most EQR provisions

- **438.340:** Managed care state quality strategy
- **438.350:** External Quality Review
- **438.354:** Qualifications of EQR organizations
- **438.356:** State contract options for EQR
- **438.358:** Activities related to EQR
- **438.360:** Nonduplication of mandatory activities
- **438.362:** Exemption from EQR
- **438.364:** External quality review results

Relevance of the Rating Period

*What does it mean when CMS says: "The **rating period** for contracts **starting** on or after July 1, 2017 (or 2018 and 2019)"?*

- The rating period is relevant to implementation dates because there are States that operate multi-year managed care contracts
- ***Rating Period*** is defined in 438.2 as "a period of 12 months selected by the State for which the actuarially sound capitation rates are developed and documented in the rate certification submitted to CMS as required by 438.7(a)."
  - It DOES NOT mean the period for which historical data is derived for purposes of rate setting

Relevance of the Rating Period

- If the State amends the contracts and rates during rating period, the implementation date specified in the final rule is NOT accelerated.
- An amendment is not the *start* of the rating period for a contract

  EXAMPLE:

  - If a State has Calendar Year contract and rating period (Jan-Dec 2017).
  - The State DOES NOT need to amend the contract to comply with provisions with an implementation date of the rating period for contracts starting on or after July 1, 2017.
  - The contract and rating period starting **January 1, 2018** would need to be in compliance with those provisions.

Rating Period Examples

Provisions with implementation date of the rating period for contracts starting on or after July 1, 2017	
Calendar Year contract and rating period cycle	Implementation of provisions for the rating period for contracts starting January 1, 2018
State Fiscal Year contract and rating period cycle (assuming July-June cycle)	Implementation of provisions for the rating period for contracts starting July 1, 2017
Federal Fiscal Year contract and rating period cycle (or State Fiscal Year that runs on FFY cycle)	Implementation of provisions for the rating period for contracts starting October 1, 2017
Any other contract and rating period cycle	The contract and rating period that starts after July 1, 2017

Rating Period Starting On or After July 1, 2017

Exhaustive list in Compliance Date section of final rule at 81 FR 27499 and Implementation Date Table on Medicaid.gov

- **438.3(s):** Covered Outpatient Drugs
- **438.5:** Rate Development Standards
- **438.6(b)(3):** Withhold Arrangements
- **438.6(c):** Delivery System and Provider Payment Initiatives
- **438.6(d):** Pass-through Payments
- **438.8:** Calculation and Reporting of Plan Medical Loss Ratio
- **438.242:** Health Information Systems
- **438.330:** Quality Assessment and Performance Improvement
- **Subpart F:** Appeals and Grievances
- **Subpart H (except 438.602(b) and 438.608(b):** Program Integrity

Rating Period Starting On or After July 1, 2018

Exhaustive list in Compliance Date section of final rule at 81 FR 27499 and Implementation Date Table on Medicaid.gov

- **438.4(b)(3):** Actuarial Soundness - Capitation rates adequate to meet 438.206, 438.207, and 438.208
- **438.4(b)(4):** Actuarial certification to capitation rate per rate cell
- **438.7(c)(3):** Ability to increase or decrease certified capitation rate per rate cell by 1.5 percent without revised rate certification
- **438.62:** Continued Services to Enrollees (Transition of Care Policies)
- **438.68:** Network Adequacy Standards
- **438.71:** Beneficiary Support System
- **438.206:** Availability of Services
- **438.207:** Assurances of Adequate Capacity and Services
- **438.602(b) & 438.608(b):** Screening and Enrollment of Network Providers
- **438.818:** Enrollee Encounter Data

Rating Period Starting On or After July 1, 2019

438.4(b)(9): Actuarial Soundness - Development of capitation rates so that a managed care plan can reasonably achieve an MLR of at least 85 percent

Rating Period that Start After Release of CMS Guidance

438.66(e): Annual Program Report

EXAMPLE: CMS Issues Guidance on Form and Content of the Annual Program Report in January 2017	
Calendar Year contract and rating period cycle	Rating period for contract starting January 1, 2018
State Fiscal Year contract and rating period cycle (assuming July-June cycle)	Rating period for contract starting July 1, 2017
Federal Fiscal Year contract and rating period cycle (or State Fiscal Year that runs on FFY cycle)	Rating period for contract starting October 1, 2017
Any other contract and rating period cycle	Rating period for contract that starts after January 2017

No Later than 3 Years from Date of Final Notice Published in Federal Register

438.334: Medicaid and CHIP Managed Care Quality Rating System

- A public engagement process to develop a proposed QRS framework and methodology
  - Similar to process used for Marketplace QRS including multiple state and stakeholder listening sessions and technical expert panel
  - Publication of a proposed QRS in the *Federal Register*, with opportunity to comment, followed by notice of the final Medicaid and CHIP QRS expected in 2018

No Later than One Year from Issuance of Associated EQR Protocol

438.358(b)(1)(iv): New mandatory activity - validation of MCO, PIHP, and PAHP network adequacy during the preceding 12 months

- CMS expects to issue protocols for the pre-existing mandatory and optional EQR activities in the Fall of 2017.
- CMS expects to issue the protocol for the new validation of network adequacy activity in a second round after the Fall of 2017.

No Earlier then Issuance of Associated EQR Protocol

438.358(c)(6): New optional EQR-related activity to assist with the quality rating of MCOs, PIHPs and PAHPs consistent with the Quality Rating System (438.334)

- CMS expects to issue the protocol in time for states to begin implementing the QRS within the 3 year QRS compliance timeframe, including any states that wish to implement earlier in that 3 year timeframe

Continuation of 2002 Regulations

For existing regulatory sections that have changes in the final rule, States must comply with the 2002 provisions until the implementation date specified in the Final Rule. ***This means that the 2002 regulations remain relevant and we recommend having a printed copy of those regulations.***

- **438.6(g) for 438.3(h):** Inspection and audit of financial records
- **438.6(k) for 438.3(q):** Requirements for PCCM contracts (new citation only)
- **438.10:** Information requirements
- **438.62:** Continued services to enrollees
- **438.66:** State monitoring requirements
- **438.206:** Availability of Services
- **438.207:** Assurances of adequate capacity and services
- **438.208:** Coordination and continuity of care
- **438.210:** Coverage and authorization of services
- **438.230:** Subcontractual relationships and delegation
- **438.242:** Health information systems

Continuation of 2002 Regulations (cont.)

- **Subpart E** – Quality Strategy; QAPI; External Quality Review (2003 provisions for EQR)
- **Subpart F** – Appeals and Grievances
  - 2002 regulations permitted States the flexibility to require one level of internal appeal and exhaustion before proceeding to SFH
  - States may offer external review process prior to rating period for contracts starting on or after July 1, 2017
- **Subpart H** – Program Integrity
  - **438.604:** Data that must be certified
  - **438.606:** Source, content, and timing of certification
  - **438.608:** Program integrity requirements

CHIP Implementation Dates

States must comply with existing regulations until new provisions are implemented

Description	Compliance Date
Withholding of FFP for failure to comply with federal requirements (§457.204)	July 5, 2016
All changes to part 457, including new subpart L, except as otherwise noted; §§457.10, 457.902, §457.940, §457.950, §457.955	No later than state fiscal year beginning on or after July 1, 2018
Mandatory EQR activity of validation of network adequacy), as applied to CHIP (§438.358(b)(1)(iv), as applied to CHIP per §457.1250)	No later than one year from the issuance of the associated EQR protocol
Managed care quality rating system (§457.1240(d))	No later than 3 years from the date of a final notice of Medicaid/CHIP QRS framework published in the Federal Register

Questions

Future Presentations

In the coming weeks, we will host in depth presentations on the following topics:

- **12:00-1:30 EST**
  - **June 9**: CHIP
  - **June 16**: Program Integrity
  - **June 23**: Rate Setting, Delivery System Reform, MLR
  - **June 30**: Covered Outpatient Drugs

Additional Questions?

Please send additional questions to the mailbox dedicated to this rule:

ManagedCareRule@cms.hhs.gov

While we cannot guarantee individualized responses, inquiries will inform future guidance and presentations