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MEMORANDUM

To: AAHKS

From: Epstein Becker & Green, P.C.
National Health Advisors

Date: August 28, 2019

Re: Summary of CMS Listening Session on Identification and Notification of Opioid Outlier Prescribers

Background

CMS is tasked with implementing Public Law 115-271, the Substance Use-Disorder Prevention that Promotes Opioid Recovery & Treatment (SUPPORT) for Patients & Communities Act of 2018. Among other opioid mitigation strategies, the law requires:

- Beginning in 2021, CMS must send an annual notifications to providers that have been identified as outliers in opioid prescribing practices for outpatient prescriptions for Medicare beneficiaries

- "after consultation with stakeholders, establish thresholds, based on *prescriber specialty* and *geographic area*, for identifying whether a prescriber in a specialty and geographic area is an outlier prescriber of opioids as compared to other prescribers of opioids within such specialty and area"

- include in notifications "information on opioid prescribing guidelines, based on input from stakeholders, that may include the CDC guidelines for prescribing opioids for chronic pain and guidelines developed by physician organizations"

On August 7, 2019, CMS hosted a listening session from medical specialty societies to gain insights on opioid prescribing to lead meaningful outlier identification.

In Attendance

- Barry Marx, Director, Office of Clinician Engagement, Center for Clinical Standards and Quality, CMS
Barry.Marx@cms.hhs.gov
- Eugene Freund, Partner Relations Group, Office of Communications, CMS
Eugene.Freund2@cms.hhs.gov

- Susie Butler, Partner Relations Group, Office of Communications, CMS
  Susie.Butler@cms.hhs.gov

The following societies and associations were represented by Washington DC-based practitioners or staff:

AAHKS
American Urological Association
American Psychiatric Association
American College of Emergency Physicians
American College of Physicians
American Association of Phys. Assistants
American Association of Nurse Practitioners
American Association of Anesthesiology
American Association of Family Physicians
American Society of Addiction Medicine

CMS Questions Presented

To prepare the prescriber outlier identification and notification system, CMS is seeking input from specialty societies on the following questions:

- How should "medical specialty" be defined?
- How should "geographic area" be defined?
- How should CMS identify an "outlier prescriber"? What factors should CMS consider when establishing opioid prescribing thresholds? A statistical outlier may not signify inappropriate opioid prescribing
- What information will be most useful to clinicians to evaluate their opioid prescribing patterns morphine milligram equivalents (MME) per prescription, day's supply & prescriptions per patient), and/or to help clinicians identify areas for improvement?

Listening Session Feedback

How should "medical specialty" be defined?

- CMS wonders whether it is possible to identify a provider's medical specialty through a procedure code on a claim. Feedback was that this is generally not indicative of specialty except in the case of some major surgical procedures, such a joint arthroplasty
- Perhaps look beyond specialty to certifications as different certifications within a specialty can have very different patient panels
- While Congress requires that CMS compare providers within a specialty, CMS should also compare providers who share the same patient panel characteristic (acute vs chronic pain; practice setting). Such information will be more informative than specialty alone

How should "geographic area" be defined?

- CMS should try to define the area as locally as possible in order to account for localized epidemics
- CMS could consider cities, counties, metropolitan statistical areas, Health Professional Shortage Areas
- It was noted that many non-opioid pain management options are unavailable in rural areas or are new and not covered by Medicare or plans

How should CMS identify an "outlier prescriber"? What factors should CMS consider when establishing opioid prescribing thresholds? A statistical outlier may not signify inappropriate opioid prescribing

- Number of Rx's written or filled is not an informative metric, especially for outpatients. MME-Rx may be a better metric, though there are a number of legitimate reasons why one's MME-Rx may be high
- AAFP noted that many patients are referred to their members already with high dosages and it can take time to taper off a high MME-Rx
- Rural areas may have higher MME-Rx because there is limited access to alternative pain management services. Some rural patients with co-occurring conditions may have been on opioids for many years
- There should be different standards for pain medicine that recognize prescribing opioids is a fundamental part of their practices. Also noteworthy that pain medicine practitioners are seeing larger number of difficult, high MME-Rx patients "turfed" to them from other providers
- It was noted that many large health systems and health plans already have outlier monitoring in place. CMS should talk to them to learn how they have structured their monitoring
- A question was presented as to whether CMS would also be identifying those who are outliers in terms of below average opioid prescribing
- It was suggested that CMS begin by tracking prescribing practices for new patients only so as not to drive practitioners to significantly change patterns for long-standing patients
- CMS asked if it would be valuable to compare a prescriber's patterns to those of his or her practice. Positive feedback was provided to this idea. Attendees said that provider behavior can be changed when providers are presented with "surprising information" about themselves that they otherwise don't have access to
- It was noted that many patients with chronic conditions are "pain orphans" who have trouble finding providers willing to take on a long-term prescribing relationship

What information will be most useful to clinicians to evaluate their opioid prescribing patterns (MME per prescription, day's supply & prescriptions per patient) & identify areas for improvement?

- CMS does not intend these notifications to have any sanctioning effect, but rather to be educational for providers who may not realize that they are outliers
- Note, the CDC Opioid Prescribing Guidelines are for chronic pain, which is very different from treatment of acute pain. Guidelines or material on acute pain management should be included as well

Questions Presented to CMS

CSM did not have answers to be following questions, but the agency welcomes more input on these topics as they develop the system:

- How can CMS determine which outliers are engaged in appropriate prescribing versus those who need intervention/training?
- Will the outlier data be available to state medical boards? Can the data be subpoenaed during malpractice litigation?
- How will CMS word and phrase the notice so prescribers understand that it is an informational notice; that they are not sanctioned and are not being told necessarily that their prescribing is inappropriate?

Next Steps

CMS will be continuing Listening Sessions and Open Door Forums on these questions. Societies should feel free to share any additional suggestions, concerns, or perspective with CMS at any time.

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