

August 3, 2011

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Donald M. Berwick, MD, MPP
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-5059-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

**Re: Medicare Program; Availability of Medicare Data for
Performance Measurement**

Dear Administrator Berwick:

The American Association of Orthopaedic Surgeons (the “AAOS”) appreciates the opportunity to comment on the proposed rule to implement new statutory requirements regarding the release and use of standardized extracts of Medicare claims data to measure the performance of providers and suppliers in ways that protect patient privacy. The AAOS represents over 18,000 board-certified, orthopaedic surgeons and has been a committed partner in patient safety, cultural competency, and providing high quality, affordable musculoskeletal care. The AAOS supports public reporting as a means to increase transparency and accountability among providers. We believe it is critical that publically reported measures be reliable, actionable, meaningful, and appropriately risk adjusted.

Eligibility Criteria and Operating Requirements for Qualified Entities

The AAOS understands that many different types of organizations will be interested in having access to Medicare data for performance measurement. **However, we encourage CMS to strongly focus on organizations with a clear commitment to improving the quality and transparency of care provided to Medicare patients.** CMS has proposed to accept applications from qualified entities with few years of experience in handling claims data and calculating performance measures and limited experience implementing and maintaining a process for providers of services and suppliers to request error correction of applicable data. The AAOS believes that qualified entities should have a minimum of five years experience in performance metrics and prior use of Medicare or other payer claims data, not the currently proposed three years. Furthermore, we agree that qualified entities requesting the data should be required to provide a detailed business model for use of the data.

We also believe that organizations should have a concrete plan to furnish data to providers and patients that is reliable, accurate, and actionable. The AAOS believes it is important for any organization measuring the performance of providers to be fair and equitable in its approach and methodology. We strongly believe that any entity that is given access to Medicare data should have a process in place to obtain provider-specific and other stakeholder input. Data access has value for both primary care and specialists. For example the AAOS has credibility with orthopaedic surgeons who can impact important areas of both chronic conditions (back pain) and common surgical procedure (joint replacement surgeries).

Addition of Claims Data from Other Sources

The AAOS agrees with CMS' proposal to require qualified entities to collect claims data from two or more other sources, such as private payers or Medicaid. Claims data are routinely collected, relatively inexpensive to analyze, and allow for easy identification of geographical and ethnic subgroups with particular access problems. However, they do not address the nuances of co-morbidities, severity, conditions that were present on admission, complications, patient satisfaction, and patient education. Claims data also provide inadequate risk adjustment. Clinical data, on the other hand, is accurate and comprehensive, but it is very expensive and often difficult to obtain as there are variations in how hospitals and physicians document and collect data. With the substantial differences in the cost of obtaining various types of clinical data, limited utilization of administrative data sets appear to be both practical and desirable. **We believe it is important to collect and publicly report meaningful information; however, there is a need for harmonization between administrative and clinical data because of the strengths and limitations of both types of data.**

Data Privacy and Security

We support transparency and performance measurement and want to ensure the information reported is both fair and accurate. We agree with the CMS proposal to require that qualified entities demonstrate they have rigorous privacy and security practices in place to protect the data released to them and have programs in place to train staff on data privacy protocols. **If CMS moves forward with allowing claims data to come from two or more sources, we encourage CMS to ensure that the same standards and safeguards are applied to data from private payers, Medicaid, and Medicare.**

Selection and Use of Performance Measures

The AAOS would like to underscore the substantial limitations in using administrative claims data for performance measurement. Administrative claims were developed

primarily for billing purposes, and not to measure the quality of patient care. Thus, qualified entities will be very limited in their ability to publicly report data that actually provides patients with the information they need to make fully informed decisions regarding their medical care.

The AAOS urges CMS to require the use of measures that have been appropriately vetted, endorsed, and approved by a consensus organization (e.g., the National Quality Forum). If alternative methodologies are used to develop performance measures, we urge CMS to ensure that the methodology used to develop these measures is consensus based (including specialty-specific provider input) and transparent, and that the measures are adequately vetted and tested prior to introducing them into use. We also have concerns with entities having the flexibility to modify existing measures. Extensive work and provider input went into the process of developing the existing measures. We agree with the CMS' proposal to require qualified entities to follow the measure specifications as written, including all numerator and denominator inclusions and exclusions, measure time periods, and specified data sources. Allowing modifications places the performance measurement at risk for being less reliable, accurate, and reflective of the care provided.

The AAOS also believes it is a necessity for qualified entities to have a thorough understanding of risk-adjustment and attribution methodologies. We believe it is important to require that entities test their risk-adjustment and attribution methodologies and thoroughly test any performance measures that are altered or not endorsed prior to public reporting of Medicare data. Risk adjustment is a vital and necessary component of any outcome, resource, or efficiency measurement program, especially when publically reporting the data. We think it would be inappropriate to measure performance and resource use without the consideration of a patient's severity, disease burden, and specific characteristics that influence outcomes and drive the need for resources. The AAOS supports proper risk adjustment of all publically reported outcome measures. Risk adjustment for age, sex, co-morbidities, disease severity, and socioeconomic status allows measures to be believable and comparable across delivery systems. In addition, poor risk stratification will provide a disincentive for surgeons to care for the sickest, and most needy patients, and this would potentially create a problem of access to medical care for such patients. This risk is a very real potential adverse consequence to patients if the risk adjustment is poorly designed.

Opportunities to Review, Appeal, and Correct Reports

We recommend that CMS develop a compliance program which entails ongoing monitoring of qualified entities. The AAOS agrees with the proposed approach to require

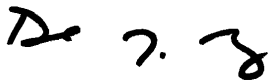
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potential qualified entities to describe their processes for providers of services and suppliers to review reports confidentially and request data. We believe that qualified entities should also allow for opportunities to correct inefficiencies and errors in the reports as part of an appeals process. **The AAOS believes that qualified entities should provide adequate time for providers to review, respond, and correct performance reports prior to public release. A minimum length of time should be set at 60 to 90 days for this review. We also urge CMS to require qualified entities to supply providers with a more granular report that is easily obtained and can actually be reviewed for discrepancies.** This will be particularly important when providing data to entities that is stripped of any data elements.

Public reporting of provider performance is rapidly expanding. The AAOS supports judicious growth of public reporting that is clinically relevant, timely, valid, reliable, appropriately risk adjusted, and actionable, and that minimizes the burden of data collection on patient, physicians, and hospitals. However, the AAOS is also concerned that public reporting of Medicare data could quickly lead to negative consequences such as providers who are unfairly defined as underperforming without meaningful participation by providers in the refinement process. It is critical that public information be fully vetted and fully supported by those who are being publically reported on.

Again, we thank you for the opportunity to comment and look forward to our continued work with the CMS on this issue. Should you require any additional feedback from our surgical and specialty perspective, please do not hesitate to contact our Medical Director, William R. Martin, III, MD at (202) 546-4430 or martin@aaos.org.

Sincerely,



Daniel J. Berry, MD
President
American Association of Orthopaedic Surgeons

cc: Karen L. Hackett, FACHE, CAE, AAOS Chief Executive Officer
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