



Protecting Access to Medicare Act -- Section 218(b): Promoting Evidence Based Care

On April 1, 2014, President Obama signed into law the Protecting Access to Medicare Act of 2014 (Public Law No. 113-93). Section 218(b) of the law directs the Department of Health & Human Services to implement a Clinical Decision Support program for advanced imaging services provided under Medicare. Set forth below is an outline of the key provisions of Section 218(b) as prepared by the Coalition.

A. In General:

- Establishes a program for *Ordering and Furnishing Physicians* to use *Appropriate Use Criteria* for *Applicable Imaging Services* in *Applicable Settings*.
 - *Appropriate Use Criteria*: criteria to assist in decision making that are developed or endorsed by National Medical Specialty Societies or other Provider-Led entities that are, to the extent feasible, evidence based;
 - *Applicable Imaging Services*: advanced diagnostic imaging services for which one or more Appropriate Use Criteria apply, one or more clinical decision support mechanisms is available, and one or more such mechanism are available free of charge;
 - *Applicable Settings*: Physician Office, Hospital Outpatient Department (including ED), Ambulatory Surgical Center, and any other that HHS determines appropriate. (Note: ED's are included but there is an exclusion for "Emergency Services").

B. Development of Appropriate Use Criteria (AUC):

- No later than November 15, 2015, HHS shall via rulemaking specify AUCs only from those developed or endorsed by *National Medical Specialty Societies* or other *Provider-Led Entities*.
 - Consideration shall be given to whether such AUCs -- have stakeholder consensus, are scientifically valid and evidence based, and are based on studies that are published/can be reviewed;
 - Criteria shall be updated annually, if warranted;
 - If more than one AUC is applicable, HHS shall apply one or more.

C. Identification of Qualified Clinical Decision Support Mechanisms:

- Not later than April 1, 2016 (and annually thereafter), HHS will identify an initial list of Qualified Clinical Decision Support Mechanisms which may include any or all of the following:
 - Modules in EHRs;
 - Private Sector Clinical Decision Support Mechanisms independent of EHRs;
 - Others.
- A Qualified CDS Mechanism must meet the following requirements --
 - Makes available the applicable AUC and supporting documentation;
 - If more than one applicable AUC, indicates which one it is using;
 - Determines extent to which the order is consistent with the AUC;
 - Generates or provides certification/documentation;
 - Timely updated;
 - Privacy and Security compliant;
 - Such other functionalities as HHS may require, which may include aggregate feedback.

D. Consultation Requirement:

- Beginning January 1, 2017, with respect to an Applicable Imaging Service in an Applicable Setting, an Ordering Professional shall consult a Qualified Decision Support Mechanism and provide to the Furnishing Professional the following information:
 - Which Qualified Decision Support Mechanism was consulted;
 - Whether the service ordered would or would not "adhere" to the applicable AUC, or whether the AUC is inapplicable;
 - The National Provider Identification number of the Ordering Professional.
- Payment to the furnishing professional for the Applicable Imaging Service (under the Physician Fee Schedule, HOPPS, or the ASC payment system as the case may be) will only be made if the claim includes the specified information.
- Exceptions to this requirement --
 - Emergency Services (EMTALA);

- Hospital Inpatient; and
- Provider facing *Significant Hardship*.

E. Outlier/Prior Authorization Policy:

Requirements of Section 218(b)--

- HHS shall identify on an annual basis no more than 5% of Ordering Professionals who are *Outlier Ordering Professionals* with respect to Applicable Imaging Services. This determination is made --
 - using not less than two years of data, beginning with 2017 data;
 - based on low adherence to AUC (which may be based on comparison to other Ordering Professionals);
- A process will be established for determining when a professional is no longer an Outlier Ordering Professional;
- Beginning January 1, 2020, HHS shall require prior authorization for the ordering of Applicable Imaging Services by an Outlier Ordering Professional --
 - HHS will determine the period of time for the prior authorization requirement;
 - Only AUC shall be used in prior authorization.