CME Policy Update

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- Senior Advisor, CME Coalition
- Founding Partner Thorn Run Partners
- 25 years of experience as a lobbyist, Capitol Hill staffer and health policy expert
- Served on the committee (Senate Health, Education, Labor and Pensions) and personal staffs of Senator Edward M. Kennedy (D–MA)
Today’s Agenda

- Update on the Status of Healthcare Legislation and changes in Washington
- MACRA Quality Payment Program and the 2018 QI CME Measure
- Open Payments, State Gift Ban Legislation and CME
- The new role of CME in tackling Opioids
Status of ACA Repeal/Replace? Repair?

- ACA More Popular Now than Ever
  - But it is wounded and increasingly sabotaged
- No Consensus Replacement has yet Emerged
  - Bipartisan fix in the works, but it will be tricky
- Key Players Against the GOP’s American Health Care Act:
MACRA, MIPS, and APMs

Quality Payment Program
Modernizing Medicare to provide better care and smarter spending for a healthier America.
Medicare Access and CHIP Reauthorization Act (MACRA)

- Bipartisan, Bicameral Medicare Cost Containment law
  - Quality versus Fee for Service
- Mandates 2 Medicare VBP Provider Payment Paths:
  - Merit-based Incentive Payment System (MIPS) – Payment differentially based on measures of quality and value
  - Advanced Alternative Payment Models (A-APMs) – Risk-based contracting with providers for defined services
- Bonus Payments 4%-27%
- Penalties 4%-9%
- Performance begins 2017 for statutory effective date January 2019
MACRA and CME

- CME Working Group
  - CME Coalition, ACCME, ACEHP, AMA, AAFP, CMSS...
  - Designed and submitted a proposed Improvement Activity for QI CME
  - Met with CMS and drove hundreds of public comments
- New 2018 Improvement Activity Adopted by CMS in Proposed Rule in June
- Final Rule due October 30
We recommended that “completion of an accredited performance improving medical education program” be included under the list of CPIAs under MIPS.

QI CME should be included in the CPIA measurement category, as these courses are among the most important ways in which doctors seek to improve their understanding of new treatments and therapies, improve beneficiary outcomes, and ultimately, improve their practice as a whole.
Title: Completion of an Accredited Safety or Quality Improvement Program Activity

Description: Completion of an accredited performance improvement continuing medical education program addresses performance or quality improvement according to the following criteria:

- The activity must address a quality or safety gap that is supported by a needs assessment or problem analysis, or must support the completion of such a needs assessment as part of the activity;
- The activity must have specific, measurable aim(s) for improvement;
- The activity must include interventions intended to result in improvement;
- The activity must include data collection and analysis of performance data to assess the impact of the interventions; and
- The accredited program must define meaningful clinician participation in their activity, describe the mechanism for identifying clinicians who meet the requirements, and provide participant completion information.
Open Payments and State Gift Ban Bills

Find Your Doctor’s Payments

Looking for a teaching hospital or company making payments? For a more refined search, use the Search Tool.

The Facts on Open Payments

<table>
<thead>
<tr>
<th>Year</th>
<th>Total US Dollar Value</th>
<th>Total Records Published</th>
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<td>Totals All Years</td>
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In September 2016, CMS posted a revised FAQ on its Open Payments website regarding the reporting of CME-related payments.

The revised FAQ 8165 replaced an earlier FAQ on the same subject by providing greater specificity with regard to the exclusion of certain CME-related payments from Sunshine Act reporting that meet the standards outlined by CMS.
“...when an applicable manufacturer ... provides funding to a continuing education provider, but does not: (1) select or pay the covered recipient speaker directly, or (2) provide the continuing education provider with a distinct, identifiable set of covered recipients to be considered as speakers for the continuing education program, CMS will consider those payments to be excluded from reporting ... This approach is consistent with our discussion in the preamble to the final rule, where we explained that if an applicable manufacturer conveys ‘full discretion’ to the continuing education provider, those payments are outside the scope of the rule ...[t]his is the case even if the applicable manufacturer or applicable GPO (subsequently) learns the identity of the covered recipient.”
Practical Implications

So what does this all mean?
Certain CME-related payments are not indirect payments, and therefore, are “excluded from reporting” or are “outside the scope of the [Sunshine Act] rule”

When are CME-related payments excluded from reporting?

The manufacturer must not:

1. “Condition... its financial” support on the “participation of particular” physician speakers or faculty;
2. “Select or pay” physician speakers or faculty directly;
3. Provide the CME provider with a “distinct, identifiable set of covered recipients to be considered as speakers”; or
4. Cause subsidized tuition fees to go to “specific physician attendees”
• Consider documenting how in each step of the CME lifecycle, the manufacturer has provided “full discretion” or has no control over content, speakers, faculty, attendees
  ○ Needs assessment, grant proposal, or RFP
  ○ Audience (e.g., specialties, institutions, hospitals, etc.)
  ○ Target geographic reach
  ○ Format/approach (e.g., live vs. web, outcomes vs. PI, etc.)
  ○ Faculty and speakers
  ○ Otherwise follow the ACCME SCS

• Treatment of meals
• Some LOA may prohibit funds for meals, speakers/faculty
Buffet Meals at Unaccredited Events

With respect to buffet meals at unaccredited events at large conferences, the manufacturer has to report unless:

- Large buffet meal, snacks or coffee available to *all* conference attendees
- Difficult to identify who partook
- Not select attendees where the applicable manufacturer can establish the identities
State Gift Ban Roundup

- Legislation introduced in at least 7 states to require disclosures or ban gifts between manufacturers and providers.
  - California, Maine, Massachusetts, Missouri, Nevada, New York, and Vermont.

- Case Study: California – S. 790
  - The California State Senate passed a gift ban restricting pharma companies from providing flights, travel, speaking fees, entertainment, consulting payments, or other financial benefits to healthcare providers.
  - The CME Coalition engaged with the author of the bill on the implications for CME.
Opioid Education

Training Health Care Providers on Pain Management and Safe Use of Opioid Analgesics-Exploring the Path Forward; Public Workshop; Request for Comments

A Notice by the Food and Drug Administration on 04/18/2017

This document has a comment period that ends in 67 days. (07/10/2017)
Opioid REMS

- FDA Opioid Prescriber Education Public Hearing
- Opportunity for new MACRA Improvement Activity?
“We are encouraged that the FDA sees CME as a valuable tool in combatting the opioids epidemic. Our members have developed hundreds of hours of innovative and creative pain education programs and have delivered them to hundreds of thousands of physicians.”

“As an incentive for prescribers to participate in opioid REMS, we recommend that the FDA encourage CMS to include opioid REMS as an improvement activity in the Quality Payment Program MIPS.”

Claire McCaskill (D-MO) investigation
CME Coalition

- 30+ CME Stakeholders including providers, educational institutions, and commercial supporters

- 2017 Priority Issues:
  - Preserving Non-Reportability of Independent CME under OP and State Gift Ban Bills
  - Driving Enhanced CME Role in MACRA QPP
  - Contributing to Better Opioid Prescriber Education Policies
Summary

- Quality Improvement CE as an Improvement Activity
- Open Payments may yet get it right
- FDA Sees an Important Role for CME in solving the opioid crisis
- There is still significant confusion on Accredited CME vs non accredited
- Encourage your organization to become active in advocacy
For More Information

CME Coalition
www.cmecoalition.org

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