

**CMS to Shorten 2015 Attestation Reporting Period:** The Centers for Medicare & Medicaid Services (“CMS”) has announced it intends to give providers a “reprieve” by issuing a new rule which would “update” the Medicare and Medicaid Electronic Health Records (“EHR”) incentive programs, and shorten the attestation period in 2015 from 365 to 90 days, in order to help “accommodate” those changes.

In a late January blog post (<http://ow.ly/TSBdz>), the deputy administrator for innovation and quality and the Chief Medical Officer (“CMO”) for CMS, Patrick Conway, M.D., stated that CMS is following “multiple tracks” to realign the Meaningful Use program “to reflect the progress toward program goals and be responsive to stakeholder input.” This new rule would be separate from the proposed rule implementing Stage 3 of the Meaningful Use program, which has already been submitted to the Office of Management and Budget for review.

It was generally acknowledged, even by CMS, that the 365 day attestation period presented problems, so the proposed changes should be welcome. In addition to shortening the attestation period, CMS is also considering proposals to modify other aspects of the program in order to match long-term goals, reduce complexity and lessen providers’ reporting burdens, as well as shortening the EMR reporting period in 2015 to 90 days in order to accommodate these changes.

**ABIM Suspends Part of Controversial Recertification Process:** The American Board of Internal Medicine (“ABIM”) has suspended controversial aspects of its maintenance-of-certification (“MOC”) program, specifically the “Practice Assessment,” “Patient Voice” and “Patient Safety” requirements, for at least two years, and apologized for these provisions.

At a recent AMA meeting, physicians pointed out that board-certification is becoming a frequent requirement for credentialing by hospitals, health systems and health insurance plans. Proposals advanced included asking the AMA to pass resolutions opposing discrimination on the basis of board certification by hospitals, employers, state licensing boards, insurers and government programs which could restrict a physician’s right to practice medicine without interference, and asking the AMA to oppose any mandated MOC unless research shows a link between certification and improved patient outcomes.

The ABIM, along with the other twenty-three members of the American Board of Medical Specialties, recently changed its recertification process from one that required an examination every ten years to one requiring continuous education and self-assessment. Dr. Richard Baron, President of the ABIM, said, in a letter posted on the Board’s website, <http://ow.ly/IPzkt> that “ABIM clearly got it wrong. We launched programs that weren’t ready and we didn’t deliver an MOC program that physicians found meaningful.” The ABIM now will not revoke an internist’s board certification for non-completion of the program’s suspended aspects.

**Allstate Loses Appeal Over \$352 Claim:** Allstate Insurance Co. took a matter to arbitration, appealed to a master arbitrator, tried to have that award vacated by the courts, and finally appealed to the Appellate Division, but lost every round. In *Matter of Allstate Ins. Co. v. Westchester Medical Group*, “C” was injured in a motor vehicle accident on February 22, 2011 and sought treatment from a medical group. C assigned her no-fault benefits to the medical group, which submitted a claim for \$352.81 for medical services rendered. Allstate maintained it was not obligated to pay this sum, contending the medical group failed to respond to its request for “additional verification” to prove the claim. An arbitrator ruled in favor of the medical group on April 25, 2012, finding that the medical group did in fact comply with Allstate’s request, and that Allstate “did not appear to be acting in good faith.” A master arbitrator confirmed the award on July, 23, 2012. On March 18, 2013, the New York State Supreme Court in Nassau County denied Allstate’s petition to vacate the master arbitrator’s award and confirmed the award. Finally, on February 4, 2015, the Appellate Division, Second Department, affirmed the lower court’s ruling and held that Allstate failed to demonstrate any grounds for vacating the master arbitrator’s award. It has taken nearly four years for the medical group to prevail in the litigation, and obtain a court order for payment of the \$352 claim.

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at [info@DrLaw.com](mailto:info@DrLaw.com).



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