Illinois Health and Hospital Association

March 22, 2021

ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
M E M O R A N D U M

SUBJECT: May 1 Implementation Deadline: Electronic Exchange of Patient Admission, Discharge and Transfer as Medicare Condition of Participation

On May 1, 2020, the Centers for Medicare & Medicaid Services (CMS) finalized the *Interoperability and Patient Access* rule. Much of this final rule is specific to payers and health plan exchanges; however, one section affects hospitals, including psychiatric hospitals and Critical Access Hospitals (CAHs), and Medicare Conditions of Participation (CoP). CMS made the electronic exchange of patient admission, discharge, and transfer (ADT) information a CoP, modifying *42 CFR 482.24(d)*, *482.61(f)* and *485.638(d)* for Conditions of Participation specific to medical/clinical records for hospitals, psychiatric hospitals, and CAHs. The implementation date for this portion of the Interoperability and Patient Access final rule is May 1, 2021. This memorandum outlines key takeaways and flexibilities outlined in the final rule.

The Interoperability and Patient Access final rule builds on the Sept. 30, 2019 CMS Discharge Planning final rule (*84 FR 51836*). The Discharge Planning final rule outlines discharge planning requirements for hospitals, CAHs and post-acute care service providers, including the transfer of a patient's medical information to other providers upon discharge as appropriate. See IHA's summary of the Discharge Planning final rule *here*.

Additionally, the Interoperability and Patient Access final rule is part of a larger CMS *initiative* to promote policies and technology for interoperability and burden reduction. This initiative aims to change how clinical and administrative information moves between payers, providers and patients, with policies and requirements driving the system toward more efficient care coordination.

New Electronic Notification Standard

The Interoperability and Patient Access final rule adds a new electronic notification standard to the medical/clinical records CoP for hospitals, psychiatric hospitals and CAHs. Providers with electronic systems capable of sending such notifications must send notifications to certain providers outlined below upon a patient's registration in the emergency department (ED), admission as an inpatient (regardless of source of admission), and discharge or transfer from the ED or inpatient services (i.e., electronic ADTs). Hospitals must ensure that they send electronic ADTs to the extent allowed under federal and state laws and regulations, and such notifications must be consistent with a patient's expressed privacy preferences.

Only those hospitals that have an electronic system capable of collecting and electronically sending required ADT data must demonstrate compliance with this final rule. If a hospital's electronic system does not have the technical capacity to generate information for electronic ADTs, defined as a system conformant with the ADT messaging standard HL7 2.5.1, then it is exempt from demonstrating compliance with the requirements of this final rule.

CMS requires hospitals to demonstrate that they "made a reasonable effort to ensure that" its system sends electronic ADTs to specified providers, rather than the proposed rule language that a hospital had a "reasonable certainty of receipt of notifications." In other words, CMS does not expect hospitals to demonstrate that its system is able to communicate with every possible provider, and compliance is met based on system capabilities.

Electronic ADT Requirements

Electronic ADTs must include, at minimum, the patient's name, the name of the treating practitioner, and the name of the hospital sending the ADT notification. CMS also strongly suggests including the patient's diagnosis if possible and language in the final rule stresses that providers may include more information, so long as that information is compliant with state and federal laws and regulations and aligns with a patient's stated privacy preferences.

As noted above, this final rule applies to hospitals with electronic systems that meet the HL7 2.5.1 standard. However, CMS did not specify standards for formatting or delivery of electronic ADTs. Additionally, the final rule affords flexibility to hospitals, with CMS refraining to specify the technology hospitals must use to send electronic ADTs.

Generally, electronic ADTs should coincide with a change from outpatient to inpatient status. For example, should a patient registered in the ED (or registered as under observation) be later admitted as an inpatient, the hospital must create separate notifications for each event (the ED registration and the inpatient admission). However, separate notices are not required should a hospital admit a patient to an inpatient unit and transfer that patient to a different inpatient unit (e.g., transfer from an intensive care unit to a medical unit). The creation of separate notices for such internal transfers is at the discretion of the hospital.

Electronic ADT Recipients

The final rule requires hospitals, psychiatric hospitals and CAHs to send electronic ADTs to the following providers:

- The patient's established primary care practitioner;
- The patient's established primary care practice group or entity;
- Other practitioners or practice groups or entities identified by the patient as the practitioner, or a practice group or entity primarily responsible for the patient's care; and/or

- All applicable post-acute care (PAC) services providers and suppliers with whom the patient has an established care relationship prior to admission or to whom the patient is being transferred or referred.

The final rule does not prevent a hospital from sending electronic ADTs to other practitioners, in accordance with all applicable laws, nor would it prevent a hospital from seeking to identify such other practitioners. In cases where the hospital cannot identify a primary care practitioner, the patient has not identified a provider, or where there is no identified PAC provider or supplier, CMS does not expect hospitals to send electronic ADTs.

Additionally, the final rule affords hospitals discretion to determine which providers should receive electronic ADTs, and allows hospitals to consider individual provider preferences. For example, if a specific provider only wants to receive notifications of patient discharge, nothing would preclude a hospital from limiting electronic ADTs for that provider to discharge notifications. Similarly, if a provider indicates that notifications are not necessary or effective in supporting care coordination, the hospital may decline to send notifications to that provider. This same flexibility applies when hospitals partner with an intermediary to deliver electronic ADTs.

Patient Consent

Hospitals may honor patient preferences to restrict delivery of electronic ADTs where consistent with other federal and state laws. At the same time, hospitals are not required to obtain patient consent to send electronic ADTs. Additionally, the final rule clarifies that hospitals are not obligated to send electronic ADTs under circumstances where they cannot confirm the identity of a receiving provider.

Use of CoPs and Compliance Surveillance

CMS stated it is using CoPs to enforce the use of electronic ADTs because it believes that patient event notifications should be a fundamental feature of hospital medical record systems to support effective care transitions and patient safety. Additionally, CMS clarified that while CoPs are a significant regulatory mechanism, noncompliance with one substandard within a CoP must be considered relative to the hospital's compliance with other CoPs, as well as the severity of the noncompliance and the risk it poses to patient health and safety.

CMS instructed state surveyors that determining compliance depends on the manner and degree to which the provider satisfies the standards within each CoP. CMS will issue interpretive guidelines and survey procedures for state surveyors prior to May. The final rule stipulates that surveyors will utilize basic and effective survey procedures and methods such as:

- Reviewing organizational structure and policy statements to ascertain that the hospital has a system that meets initial requirements for sending electronic ADTs;

- Reviewing a sample of active and closed medical records for completeness and accuracy, including any electronic ADTs, in accordance with federal and state laws and regulations and hospital policy; and
- Interviewing medical records and other hospital staff to determine understanding of the electronic ADTs function within the hospital's electronic system.

For more information, see CMS' March 9, 2020 Interoperability and Patient Access *Fact Sheet*.

Please send questions and comments to IHA.