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CMS Proposes Rule for Medicaid Nonpayment in the Event of Health Care Acquired Conditions

By: [Mark A Stanley](#)

CMS has released a [proposed rule \[PDF\]](#), which would implement the Affordable Care Act's requirement that state Medicaid plans must disallow payment for care and services related to health care acquired conditions (HCACs) and other provider-preventable conditions (OPPCs). The proposed rule would require states to adopt Medicare's existing payment prohibitions for hospital acquired conditions, and would extend those prohibitions to conditions acquired by Medicaid beneficiaries in non-hospital settings. Under the proposed rule, states would be required to establish a provider self-reporting mechanism for HCACs and OPPCs.

Health professionals that treat Medicaid patients should familiarize themselves with the list of hospital acquired conditions, which all state Medicaid plans would target for nonpayment under the proposed rule. [The current list of hospital acquired conditions may be viewed here \[PDF\]](#). States would also be able to establish OPPCs based on the following criteria: the condition or event must be (1) discrete, auditable, quantifiable, and clearly defined; (2) clearly adverse, resulting in negative consequence of care that results in unintended injury or illness; and (3) reasonably preventable, meaning an event that could have been anticipated and prepared for, but that occurs because of an error or other system failure.

Comments must be received no later than March 18, 2011.

Ober|Kaler's Comments

The proposed nonpayment for HCACs largely adopts the Medicare framework for nonpayment of hospital acquired conditions, which should be familiar to providers who treat Medicare beneficiaries in a hospital setting. The expansion of this program to non-hospital settings exceeds the scope of the Medicare program's rules on HCACs. Other providers, therefore, may be in for a surprise, as most state

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plans do not currently identify any provider preventable conditions for Medicaid nonpayment. The rules are being implemented as cash-strapped states look to balance their budgets without the aid of federal stimulus dollars. Medicaid providers can therefore expect the nonpayment provisions to have some teeth.