

Supporting Statement
Current State Practices Related to Payments for Health Care Acquired Conditions
CMS-10335

Specific Instructions

A. Background

On July 31, 2008, the Centers for Medicare & Medicaid Services (CMS) issued a State Medicaid Director Letter (SMDL #08-004) to provide guidance related to coordination of State Medicaid payment policies with policies adopted by the Medicare program related to hospital-acquired conditions (HACs) and certain conditions on the National Quality Forum's list of Serious Reportable events (commonly referred to as "Never Events"). At that time, CMS was not statutorily required to prohibit payments to States for HACs or Never Events under Medicaid. The guidance provided States broad direction for implementing State Medicaid policies that would align with Medicare to prevent payment liability as a secondary payer for HACs and Never Events.

The Patient Protection and Affordable Care Act of 2010 (Affordable Care Act, Public Law 111-148) enacted March 23, 2010 includes a provision prohibiting payments to States under Section 1903 of the Social Security Act for any amounts expended for providing medical assistance for health care-acquired conditions (HCACs). This provision becomes effective July 1, 2011. Section 2702(a) of the Affordable Care Act, Payment Adjustment for Health Care-Acquired Conditions, requires that the Secretary identify current State practices that prohibit payment for HCACs and incorporate into the implementing regulations those practices or elements of such practices which the Secretary deems appropriate for application to the Medicaid program. Section 2702(b) defines the term "health care-acquired condition" as "a medical condition for which an individual was diagnosed that could be identified by a secondary diagnostic code described in section 1886(d)(4)(D)(iv) of the Social Security Act." Section 2702(c) requires that the Secretary apply to the Medicaid program appropriate Medicare regulations pertaining to the prohibition of payments for HCACs.

In accordance with section 2702(a) of the Affordable Care Act, CMS is issuing to States a survey to obtain information on current State Medicaid practices for prohibiting payments for HCACs. The survey is intended to capture data from all related payment policies regardless of whether they were implemented as a result of the July 31, 2008 SMDL or whether such practices are currently detailed in the State plan.

This survey instrument will obtain information from States regarding existing practices for prohibiting payment for health care-acquired conditions, as required by Public Law (P.L.) 111-148.

B. Justification

1. Need and Legal Basis

The Patient Protection and Affordable Care Act of 2010 (Affordable Care Act, P.L. 111-148) enacted March 23, 2010 includes a provision prohibiting Federal Financial Participation to States for payments for health care-acquired conditions (HCACs). Specifically, Section 2702(a) of the Affordable Care Act specifically requires that the Secretary identify current State practices that prohibit payment for HCACs and incorporate those practices, or elements of those practices, which the Secretary deems appropriate for application to the Medicaid program.

In accordance with section 2702(a) of the Affordable Care Act, the Centers for Medicare & Medicaid Services (CMS) is issuing this survey to States to obtain information on current State Medicaid practices for prohibiting payments for HCACs.

2. Information Users

The CMS Center for Medicaid CHIP and Survey and Certification, Financial Management Group, Division of Reimbursement and State Financing, is collecting the requested information on existing State programs with the intention of incorporating effective State practices into Federal regulations regarding the prohibition of payments to States for HCACs as required by P.L. 111-148, Section 2702.

3. Use of Information Technology

Consideration was given to collecting this data electronically. It was determined that the development of an electronic system for purposes of collecting this data would not be cost-effective, timely, nor adequate for the required task.

- Is this collection currently available for completion electronically?

No, this collection is not currently available for completion electronically.

- Does this collection require a signature from the respondent(s)?

No, this collection does not require a signature from the respondents.

- If CMS had the capability of accepting electronic signature(s), could this collection be made available electronically?

This question does not apply.

- If this collection isn't currently electronic but will be made electronic in the future, please give a date (month & year) as to when this will be available electronically and explain why it can't be done sooner.

This question does not apply.

- If this collection cannot be made electronic or if it isn't cost beneficial to make it electronic, please explain.

It is not cost beneficial to make this collection electronic. This is a one-time collection that will go out to all States, but it is likely that not all States will respond because the policy/provision does not apply to all State Medicaid programs. The cost of developing an electronic survey system would be excessive given the type of data being collected and the anticipated response.

4. Duplication of Efforts

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

5. Small Businesses

This collection does not impact small businesses or other small entities.

6. Less Frequent Collection

The survey format selected is the most consistent, efficient and economic means of collecting the necessary data. If this information is not collected, CMS will likely be in violation of the law without having sufficiently identified current State practices that prohibit payment for health care-acquired conditions.

7. Special Circumstances

This collection does not have any special circumstances.

8. Federal Register/Outside Consultation

A-60 day Federal Register Notice be published on July 12, 2010.

9. Payments/Gifts to Respondents

There will be no Payments/Gifts to Respondents as a result of this survey.

10. Confidentiality

Information received from this collection is not confidential in nature.

11. Sensitive Questions

Information requested from this collection is not sensitive in nature.

12. Burden Estimates (Hours & Wages)

This survey is akin to customary requests for additional information performed on regular basis as part of respondents' normal business. There will be a maximum of 50 respondents for this one-time response. It will take approximately 30 minutes to one hour to complete the survey depending upon an individual State's program. The burden was estimated based on the length of time it takes to answer the basic answer questions, in combination with the short essay questions. There is no additional cost burden to respondents.

13. Capital Costs

There is no capital costs associated with this collection.

14. Cost to Federal Government

There will be no additional costs to the Federal government as a result of this collection.

15. Changes to Burden

This is a new collection.

16. Publication/Tabulation Dates

There are no planned publications or tabulations.

17. Expiration Date

CMS would like to display the expiration date.

18. Certification Statement

There are no exceptions to the certification statement.