

# Medicaid Health Care-Acquired Conditions

September 13, 2010

NQF State Reporting Call

# *Medicaid Health Care-Acquired Conditions General Background*

- Nationwide, payers are looking for ways to improve quality and gain better value for dollars spent on health care. Limiting instances in which patients suffer from health care acquired conditions is one such approach.
- In 2009, Medicare enacted regulations to identify thirteen events ((three National coverage determinations (NCD) and 10 health acquired conditions (HAC)) that could result in full or partial denial of payment to hospitals where these events could reasonably have been prevented through the application of evidence-based guidelines.
- In support of State Medicaid programs and in response to Medicare's policy, CMS issued State Medicaid Directors' letter (SMDL) 08-004 to inform States about the flexibility allowed in implementing payment policies related to Never Events and to provide guidance to States interested in avoiding secondary liability for Federally denied NCD and HAC claims resulting from services provided to dually eligible Medicare and Medicaid beneficiaries.
- The SMDL noted that there was variation in how State Medicaid programs addressed Never Events in the past. The SMDL also recognized that some States might want to experiment with payment reforms that went beyond the dually-eligible category and that covered events other than the 13 federally designated ones. The SMDL expressly allowed States to file State Plan Amendments (SPAs) with more ambitious Never Events policies, subject to CMS approval, provided that such policies were reasonable.

# *Medicaid Health-Care Acquired Conditions in the Affordable Care Act*

- Section 2702 of the Affordable Care Act requires CMS to promulgate regulations, effective July 1, 2011, identifying current State practices that prohibit payment for HACs and incorporating the practices identified, or elements of such practices, that the Secretary determines appropriate for application to the Medicaid program.
- Section 2702 also prohibits payments to States under section 1903 of the Social Security Act for HACs specified in the regulations, while stipulating that the prohibition on payment may not result in a loss of access to care or services for Medicaid beneficiaries.
- The statute requires that Medicaid's regulations be consistent with Medicare's existing statutory and regulatory language in significant ways, but also allows Medicaid flexibility in recognition of the operational differences between the two programs.
- CMS issued the survey "*Current State Practices Related to Payments to Providers for Health Care-Acquired Conditions*", ((75 Federal Register, Page 39696 (July 12, 2010)) as the first step in CMS' efforts to obtain information from States on how they have operationalized Never Event policies within their Medicaid programs. In addition, CMS plans to engage State and external partners and review existing research from various governmental and non-governmental sources.
- Our goal is to produce a rule that adheres to the statutory directive and is consistent with Medicaid Never Events policies that State have already implemented.