CMS Announces MyHealthEData Initiative to Promote Patient Access to Health Data

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On March 6, 2018, CMS announced the MyHealthEData initiative, which aims to give patients easier access to and control over their medical records.

Announcing the initiative, CMS Administrator Seema Verma laid out a future where individuals will have access to their health data wherever they go and be able to share data with the push of a button, with easy access to their entire medical history from birth, including data from health visits, claims, and information gathered through wearable technology.

According to Administrator Verma's speech and a CMS announcement, the MyHealthEData program is a government-wide initiative that includes the following components:

- *Blue Button 2.0.* In 2010, Medicare launched the Blue Button initiative, which let beneficiaries download their claims data into a PDF file. Blue Button 2.0 will expand upon this program by allowing beneficiaries to "take their data and use it on applications designed to help them manage their health, or share it with their doctors to improve clinical decision-making." Currently, data from the previous four years of fee-for-service claims are available. CMS writes that "Medicare's upgrade to the Blue Button service will enable beneficiaries to give their physicians access to information on their current prescriptions and medical history, to save time during appointments and improve the quality of care delivered."
- *Encouraging MA plans and QHPs to Share Patient Data.* According to CMS's statement, the agency "will be re-examining its expectations for Medicare Advantage plans and qualified health plans (QHPs) offered through the federally facilitated exchanges, and calling on all health insurers to release their data."
- *Overhauling EHR Incentive Programs.* CMS writes that it will streamline Medicare and Medicaid EHR incentive programs and use MACRA's Quality Payment Program to increase the focuses on data sharing and interoperability. CMS states that will take steps against information blocking that prevents patients from obtaining data. CMS also noted that the 2015 Edition CEHRT demands that EHR technology be "capable of giving data to patients in a usable and secure electronic format" that can be shared more effective through APIs.
- *Incorporating Interoperability into Value-Based Care Models.* CMS states that it will look to incorporate interoperability into new payment models that pay for value, including by requiring providers to update their systems to ensure data sharing, requiring sharing of data upon

discharge, streamlining documentation requirements for billing, and facilitating the sharing of data to reduce duplicative testing and treatment.

While Administrator Verma laid out a compelling case for the need to improve health care technology, and the MyHealthEData initiative includes laudable and worthy goals, Administrator Verma's speech and CMS's statement were thin on details about the programmatic and policy changes that would be made to implement the program. For example, how will CMS operationalize Blue Button 2.0, and how will patient data be safeguarded? Administrator Verma stated that patients should know that health data will remain "secure and private," but neither her speech nor the CMS fact sheet give any further details as to how CMS will safeguard data. Nor do they discuss whether the Administration is considering any changes to HIPAA or health privacy regulations to facilitate the ease of data sharing. Furthermore, none of the materials discuss how these initiatives will work with the individual rights to access protected health information afforded by HIPAA. Similarly, it is not clear how CMS will improve the EHR program and interoperability, or how it will work with ONC to ensure the requisite technology is made available to providers.

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