CMS Framework for Health Equity: An Opportunity for Client Advocacy

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The Centers for Medicare & Medicaid Services (CMS) Office of Minority Health has published its comprehensive CMS Framework for Health Equity 2022–2032 (Framework). CMS's Framework arose in response to the Biden administration's focus on supporting underserved communities and is one of many initiatives the agency has recently undertaken to improve health equity among a wide swath of disadvantaged or underserved people.

Providers and plans should be aware that CMS's focus on health equity is expected to grow. As more regulations, initiatives, and application forms are rolled out over the next few years, including Medicare Advantage application forms, providers and plans will see CMS request more information related to equity and expect more accountability for how organizations achieve equity. Providers and plans that are advocating to CMS should consider how to position their efforts within the five Framework priorities.

The Biden Administration's Focus on Equity

In January 2021, President Biden effectuated his first executive order, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Executive Order). This inaugural Executive Order declared that the Biden administration would take a strong, comprehensive approach to combatting systemic racism and promoting equity. The Executive Order defines "equity" as "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian,

People

Lynn Shapiro Snyder
Strategic Advisor
Artificial Intelligence
202-861-1806
lsnyder@ebglaw.com

Philo D. Hall
Strategic Advisor
Health Care Compliance
202-861-1382
phall@ebglaw.com

Focus Areas

Services

Population Health Strategies

gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality."

The Biden administration implored its executive departments and agencies to "recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity." To accomplish this goal, the Executive Order calls for the Office of Management and Budget and the heads of agencies to collaborate in order to determine whether or not "agency policies and actions create or exacerbate barriers to full and equal participation by all eligible individuals."

CMS's Push for Equity

CMS has worked to achieve the goals of this Executive Order and promote health equity in various ways. Most recently, CMS has published the Framework, which outlines the agency's decade-long push for health equity. The Framework lays out five agency priorities: (1) to expand the collection, reporting, and analysis of standardized data; (2) to assess the causes of disparities within CMS programs and address inequities in policies and operations to close gaps; (3) to build the capacity of health care organizations and the workforce to reduce health and health care disparities; (4) to advance language access, health literacy, and the provision of culturally tailored services; and (5) to increase all forms of accessibility to health care services and coverage. Within the Framework, CMS plans to address the health disparities of individuals listed in the Executive Order, as noted above, with the further addition of individuals in frontier areas, tribal lands, and U.S. territories as well as individuals with limited English proficiency. CMS did not include religious minorities within its definition of "equity."

While the Framework was published in April 2022, CMS has already been working to overtly address health equity, in accordance with the Framework, through various other forums. Four prime examples are the following:

1. *Rural Health Strategy*

The Rural Health Strategy aims to achieve "equitable rural health and health care" by applying a rural lens to CMS programs and policies, improving access to rural health care through provider engagement and support, promoting and advancing telehealth, empowering patients in rural communities, and leveraging partnerships with stakeholders to achieve the aforementioned goals. The Rural Health Strategy is in clear alignment with the stated goals of the Framework. Providers and plans serving rural communities should consider framing any requests or responses to CMS through the lens of rural health equity.

1. *2023 Inpatient Prospective Payment System (IPPS) Rule*

CMS is proposing a rule that would incorporate health equity into the IPPS. The IPPS is a Medicare payment system for hospitals wherein CMS assigns a bundle of care into a diagnostic-related group (DRG). Each DRG is assigned a payment rate, which is calculated based on the average resources that are used to treat Medicare patients within that DRG. CMS's proposed rule would create a maternity care quality hospital designation wherein hospitals would report data focused on maternal health. Maternal health is an important equity issue for providers and plans to measure and address, as many minority groups have vastly disparate health outcomes in maternal morbidity and mortality rates. The rule also requests public comments on various health equity topics. It requests comments on how the reporting of social determinants of health codes would impact CMS's ability to "recognize severity of illness, complexity of services, and/or utilization of resources under the []DRGs."[1] It also requests comments on how to measure health care disparities, principles for choosing measures for disparity reporting, guidelines for social risk factors and demographic data selection and use, suggestions as to how to identify performance differences, and guidance on how to report disparity results.[2] CMS's proposed rule also indicates that it plans to adopt three health equity measures: (1) the Hospital Commitment to Health Equity measure, (2) the Screening for Social Drivers of Health measure, and (3) the Screen Positive Rate for Social Drivers of Health measure.[3] Hospitals should be aware that these changes may be implemented in 2023 and that this is likely the start of an increased effort for providers to submit measurable health equity data.

1. *Accountable Care Organization Realizing Equity, Access, and Community Health (ACO REACH) Model*

The ACO REACH Model is a Medicare accountable care organization model that seeks to promote health equity and "bring[] the benefits of accountable care to Medicare beneficiaries in underserved communities." The ACO REACH Model seeks to achieve this goal by paying participating ACOs based on measurable reductions in health disparities within their participating beneficiaries. The ACO REACH Model contains five policies in order to accomplish its health equity mission: (1) require all ACOs to create and implement a Health Equity Plan; (2) apply a beneficiary level adjustment that increases the benchmark for ACOs that serve a high proportion of underserved beneficiaries; (3) require ACOs to collect and report demographic data and social determinants of health data; (4) create the Nurse Practitioner Services Benefit Enhancement, which permits nurse practitioners to provide certain services without physician supervision normally required under Medicare; (5) add health equity questions to the ACO application as well as health equity scoring. ACO participants should know that value-based payment models, such as ACO REACH, will likely continue to require a strong focus on health equity to achieve shared savings in the future.

1. *The 2021 Medicare Merit-Based Incentive Payment System (MIPS) Rule*

In 2021, CMS promulgated a rule that financially incentivized doctors receiving Medicare reimbursement to combat systemic racism through bonus payments. The rule created a new improvement activity for providers that create and implement an anti-racism plan, among several other changes to MIPS intended to achieve health equity. Such anti-racism plans, according to the rule, include an enterprise-wide review of "existing tools and policies, such as value statements or clinical practice guidelines" in order to confirm that they demonstrate anti-racism and "an understanding of race as a political and social construct, not a physiological one." In a clear commitment to achieving equity, CMS weighted the evaluation of this improvement activity "high." However, the rule is not without controversy. Two doctors and eight states have sued, in *Colville v. Becerra*, in order to stop the rule, even though CMS is not *requiring* providers to create an anti-racism plan—instead, providers are *permitted* to pick among 106 improvement activities to earn bonus payments. Providers that participate in Medicare should be aware that strong efforts to achieve health equity, particularly through the creation and implementation of anti-racism plans, are an avenue to earning higher bonus payments under MIPS, despite the present legal challenge to the rule.

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This Insight was authored by **Lynn Shapiro Snyder**, **Helaine I. Fingold**, **Philo D. Hall**, *and* **Devon Minnick**. *For additional information about the issues discussed in this Insight, please contact one of the authors or the Epstein Becker Green attorney who regularly handles your legal matters.*

ENDNOTES

[1] https://www.cms.gov/newsroom/fact-sheets/fy-2023-hospital-inpatient-prospective-payment-system-ipps-and-long-term-care-hospitals-ltch-pps.

[2] *Id.*

[3] *Id*.