



AMERICAN COLLEGE OF PHYSICIANS
INTERNAL MEDICINE | *Doctors for Adults*

October 27, 2011

Donald Berwick, MD
Administrator
Centers for Medicare and Medicaid Services (CMS)
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Dr. Berwick:

The American College of Physicians, representing over 132,000 internists and medical students who specialize in the primary and comprehensive care of adolescents and adults, is pleased to offer the following comments re: *Patient Protection and Affordable Care Act: Standards Related to Reinsurance, Risk Corridors and Risk Adjustment. 45 CFR Part 153: (CMS 9975-P)*.

The College supports the need to apply an effective risk-adjustment methodology for all non-grandfathered plans in the individual and small group market both inside and outside of the Health Insurance Exchanges created under the Accountable Care Act of 2010. Such risk adjustment is necessary to help ensure that premium differences among insurers appropriately reflect differences among insurers' premiums due to actuarial risk, reduces the potential for insurers to benefit through the selection of only the healthier members of the covered population, and serves to level the playing field both inside and outside of the Exchange.

The College supports the proposal that HHS establish a standard, federal risk adjustment methodology to be used by states that elect to operate an Exchange, or by HHS on behalf of states not electing to operate an Exchange. The College further supports the proposal to allow states to employ an alternative methodology, but only if reviewed and certified by HHS as having similar or better performance than the standard, federal methodology.

The College takes no position regarding, which of the following approaches to employ to collect the data necessary to implement the risk-adjustment methodology: (1) A centralized approach in which issuers submit raw claims data sets to HHS; (2) an intermediate State-level approach in which issuers submit raw claims data sets to the State government, or the entity responsible for administering the risk adjustment process

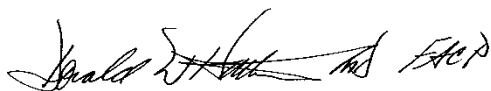
at the State level; or (3) a distributed approach in which each issuer must reformat its own data to map correctly to the risk assessment database and then pass on self-determined individual risk scores and plan averages to the entity responsible for assessing risk adjustment charges and payments. **Regardless of approach, the College offers the following comments:**

- **That any data transfer that is required be de-identified to the fullest extent possible. It is our contention that only de-identified data needs to be transmitted by the insurer for the purpose of implementing the necessary risk-adjustment methodology.** The maintenance of patient privacy regarding their healthcare records and information (including claims data) is paramount to maintain trust in the healthcare system.
- **That the proposed use of the following transaction standards:**
 - **The HIPAA ASC X12N 837 Health Care Claim transaction standard for any claims-related data including encounters;**
 - **The HIPAA ASC X12N 834 Enrollment and Maintenance transaction standard for any enrollment or demographic data; and the**
 - **The NCPDP claims transaction standard for prescription drug, claims and encounter data, for transmission of data to HSS or the State Exchanges,****may make it difficult to provide the necessary risk-adjustment data in de-identified form. HHS should confirm and validate the appropriateness of the use of these standards for the purposes outlined.**
- **That the proposed rule does not provide sufficient limitations regarding the use of the data by the State Exchanges or HHS once received e.g. “encounter or claims data collected for risk adjustment may be required to support other Exchanged-related functions”. The rule should provide a clearer statement indicating how the information can be used and means of ensuring that the information is solely used for the specified purposes.**

The College commends HHS for recognizing the importance of the establishment of a risk adjustment validation process---one that promotes the issuer confidence required for risk adjustment to have a positive impact on premium reduction. Once finalized, the methodology employed for this purpose must be clear, transparent, and, as already indicated in the proposed role, include an appeals process.

Please contact Neil Kirschner, PhD on our staff at 202 261-4535 or nkirschner@acponline.org if you have any questions regarding these comments.

Respectfully,



Don W. Hatton MD. MACP
Chair, Medical Practice and Quality Committee