

September 7, 2021

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: CMS-1751-P: Medicare Program; CY 2022 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-payment Medical Review Requirements

Dear Administrator Brooks-LaSure:

On behalf of the National Association of Emergency Medical Technicians (NAEMT), thank you for giving us the opportunity to comment on the proposed modifications to the Medicare Ground Ambulance Data Collection System (Data Collection System) that are part of the “CY 2022 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-payment Medical Review Requirements” (Proposed Rule).

Formed in 1975 and more than 72,000 members strong, NAEMT represents the professional interests of all emergency and mobile healthcare practitioners, including emergency medical technicians, advanced emergency medical technicians, emergency medical responders, paramedics, advanced practice paramedics, critical care paramedics, flight paramedics, community paramedics, and mobile integrated healthcare practitioners.

We greatly appreciate the opportunity for NAEMT to work with your staff to help develop a meaningful tool that seeks to address the truly unique aspects of this part of the health care system. It is important to make sure the tool captures the necessary data because ground ambulance services are not only critically important health care services, but they are also the foundation upon which the country’s emergency medical system (EMS) is built and a core component of its public health infrastructure. We appreciate the dedication of the Centers for Medicare & Medicaid Services (CMS) in understanding these roles.

Overall, NAEMT supports the modifications proposed to the Data Collection System, but offers a few recommendations to make sure that once launched, the system will work as intended. First, we ask that CMS adjust the proposed revised timeline of data collection to allow a full four years of data collection as Congress intended. Second, we ask that CMS use the extra time to beta test the tool, which has not yet been done. Finally, we support the proposals to modify the penalty collection and public reporting to align with the modified timeline for data collection and report, but ask that the publication of data from the tool be annual rather than as proposed.

Timeline for Data Collection

As part of the authorizing statute, Congress set forth a four-year timeline for the Data Collection System. As CMS originally established in regulation, this timeline would have resulted in a 25 percent stratified sample in each of the first four years of the Data Collection System based on a representative sampling approach. NAEMT supported both the Congressional mandate and the CMS rule finalizing that approach.

With the onset of the COVID-19 pandemic, CMS understandably paused the implementation of the Data Collection System, but it had already selected the ground ambulance organizations that would be required to report for Years 1 and 2 once the delay ended. Because the pandemic's trajectory has not been easy to predict, CMS modified the timeline a second time as well. While these agencies were ready to report, NAEMT also appreciated and supported the delays given that these agencies and their personnel were on the frontlines of responding to the pandemic at great personal risk and often without the resource's other health care providers and suppliers were receiving from the federal government. It made sense to pause the program.

This delay created the unintended consequence of having 75 percent of ground ambulance organizations being required to report in Year 1 using a tool that has not yet been tested, rather than having 25 percent of these organizations reporting in the first year.

While NAEMT appreciates the effort to address this problem, we ask that CMS not collapse the Congressionally mandated four years of data collection into two years. This option is especially problematic given that the previous Administration did not beta test the tool or system, so the first year of data collection is likely to be fraught with confusion and errors, despite the Agency and its contractor's best efforts to address as many questions as possible before it is fielded. Instead, of the revised timeline outlined in the Proposed Rule, we propose the following:

Year 1: 25 percent of ground ambulance organizations

Data collection period January 1, 2022, to December 31, 2022

Data reporting period January 1, 2023, to December 31, 2023

Year 2: 25 percent of ground ambulance organizations

Data collection period January 1, 2023, to December 31, 2023

Data reporting period January 1, 2024, to December 31, 2024

Year 3: 25 percent of ground ambulance organizations

Data collection period January 1, 2024, to December 31, 2024

Data reporting period January 1, 2025, to December 31, 2025

Year 4: 25 percent of ground ambulance organizations

Data collection period January 1, 2025, to December 31, 2025

Data reporting period January 1, 2026, to December 31, 2026

This approach would allow for timing that mirrors what the authorizing statute requires. It also would meet CMS's stated goal that the data collected be "more reflective of a typical year of costs for ground ambulance organizations" than data collected during the turbulent times of the pandemic, which continues to rage during this fourth surge with the Delta variant.

We recognize that MedPAC's report based on the data is due to Congress no later than March 15, 2023. However, it is important that the data provided to MedPAC be as accurate and meaningful as possible. Without beta testing, the likely errors and confusion will undermine the intent of Congress in having MedPAC review the data and make MedPAC's analysis less helpful for policymakers.

In addition, even with the modifications proposed in this rulemaking, the timing will not work for MedPAC to complete an analysis based on collected data. To prepare for a March report, the MedPAC staff generally begin working on the analysis and presenting concepts to the Commissioners the fall before the report is issued. The Commissioners consider and develop recommendations that are voted on during the November and December (and sometimes January) Commission meetings preceding the March report.

The timeline CMS proposes will not provide MedPAC with the data it needs to fully consider and analyze it for purposes of developing a March 2023 report. Under the original Congressional timeline, MedPAC would have had two to three years of data spanning 2020-2021 with a potential for a partial 2022 data update available to analyze 50 to 75 percent of ground ambulance organizations. Unless Congress or MedPAC delay the report's timeline, MedPAC will have no data upon which to base its initial discussions about the Data Collection System or the Ambulance Fee Schedule. They might have some initial data before it issues a report, but that seems very unlikely. It would benefit MedPAC, the Administration, Congress, the ground ambulance organizations, and the beneficiaries to realign the MedPAC timeline to address the pandemic. This is true under both the current timeline and the one proposed in the Proposed Rule.

NAEMT supports reducing the percentage of ground ambulance organizations collecting cost data in a single year, and recommends that that percentage be set at 25 percent consistent with the statute. We also encourage CMS to inform Congress of the necessary delay in the implementation of the Cost Data Collection System and encourage it to move the MedPAC report due date in light of the pandemic as well. To protect access to ground ambulance health care services, our nation's EMS system, and our public health infrastructure, we ask CMS to not collapse a four-year Data Collection System into a two-year timeline given the unanticipated and devastating effects of the global pandemic.

Beta Testing the Data Collection System

We believe that CMS and the contractor have prepared a tool and Data Collection System that will ultimately provide meaningful and accurate data upon which policymakers can reform the Ambulance Fee Schedule and make other decisions related to the benefit. However, any new system needs to be tested before it is launched. Beta testing is particularly important given the number of data elements; the variety of types, sizes, and locations of ground ambulance organizations; and the volume of small entities that comprise more than 80 percent of these providers and suppliers.

Testing the tool and the system is in the best interest of ground ambulance organizations, Congress, CMS, and the beneficiaries who rely upon the ground ambulance benefit. It will help identify any unforeseen issues with the data elements, definitions, and collection mechanisms. We share the common goal of making sure this system works and that the data reported is accurate and meaningful. It is essential to minimize errors and other problems that could hamper data analysis. We encourage CMS to identify a small group of representative ground ambulance organizations to participate in the Beta testing phase.

Change in Timelines for Penalties and Public Reporting

NAEMT supports aligning the timelines for the application of penalties for not reporting data when required to do so, as well as the release of publicly available data, with the new timelines for data collection and reporting that are ultimately adopted. If CMS were to adopt the recommendations NAEMT has set forth in this letter, we would ask that the penalty and publicly available data timelines also be shifted.

However, we believe that in terms of making the data available to the public, it would be beneficial and provide greater transparency if CMS were to release the data annually as well rather than wait until 2024 for the first release. It is particularly important to provide the public with the data that will be provided to MedPAC for its analysis. Releasing this data would be similar to the way CMS releases cost reporting data or other data files with the annual rulemaking process for hospital, End Stage Renal Disease facilities, Skilled Nursing Facilities, and other Medicare providers and suppliers to allow for a transparent decision-making process.

NAEMT appreciates the opportunity to provide comments on the Proposed Rule.

Should you have any questions or would like to discuss these recommendations further, please do not hesitate to contact NAEMT's Director of Government Affairs, Kim Champi Krenik at 202.365.8342 or kim.krenik@naemt.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Evans". The signature is fluid and cursive, with a large initial "B" and "E".

Bruce Evans, MPA, NRP, CFO, SPO
President, NAEMT