June 21, 2021 MSO-PCC-LET-598-061821-E

TO: ALL PROVIDERS CONTRACTED BY MSO OF PUERTO RICO, LLC

RE: CMS Interoperability Mandate

Dear provider:

As a provider, and subject to the Provider Services Agreement ("PSA") subscribed by you and MSO of Puerto Rico, LLC ("MSO"), you are bound to comply with the applicable statutory and regulatory standards of the health industry. This includes, as provided to in your PSA, provisions and guidelines implemented -as may be amended from time to time- by the Centers for Medicare and Medicaid Services ("CMS").

As part of these regulatory requirements, provider is obliged to comply with the CMS Interoperability Mandate, which in sum provides setting patients first, giving them access to their health information when they need it most and in the most effective way for them to use. MSO hereby summarizes the CMS Interoperability Mandate key points:

a) CMS Interoperability and Patient Access Final Rule [CMS-9115-F][1]

- On March 2020, CMS introduced interoperability rules for health plans as part of the 21st Century Cures Act ("Cures Act").
- This rule establishes policies that aim to break down barriers in the health system across the US for better patient engagement.
- To be compliant with the CMS interoperability and patient access final rule, **all CMS regulated payers need to implement and maintain a standard-based API to share member health data starting January 1st 2021. Implementation: 01/01/2021; Enforcement 07/01/2021.**
- The API should **allow members to access their health data through third-party applications of their choice with the approval/consent from the member.**
- Type of data included: **Adjudicated Claims, Encounter Data, Clinical Data, Provider Directory and Drug Benefit Data.**

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[1] Access at: https://www.federalregister.gov/documents/2020/05/01/2020-05050/medicare-and-medicaid-programs-patient-protection-and-affordable-care-act-interoperability-and

- Data must be made available no later than **one (1) business day after a claim is adjudicated or encounter data are received**. CMS is requiring that beginning January 1, 2021, impacted payers make available, through the Patient Access API, the specified data they maintain with a **date of service on or after January 1, 2016**.

b) Information Blocking[2]

- With patients becoming more empowered, this drives health care providers to move toward information sharing rather than information blocking, which directly leads to improved patient access to information.
- The Cures Act included a definition of "information blocking". The new regulation (also a "law") published in the Federal Register in May 2020 by ONC identified **three types of participants in health care that are covered under information blocking: 1) health care providers, 2) health IT developers of certified health IT, and 3) health information networks (HINs)/health information exchanges (HIEs)**.
- Through the Cures Act, Congress defined information blocking and established penalties for those who engage in information blocking. In general, **covered participants can no longer engage in practices that interfere with the access, exchange, or use of electronic health information unless the practices are required by applicable law(s) or if an actor meets an "exception" established by the HHS Secretary.**
- Section 106(b)(2)(A) of MACRA amended section 1848(o)(2)(A)(ii) of the Act to require that an eligible professional must demonstrate that he or she has not knowingly and willfully taken action (such as to disable functionality) to limit or restrict the compatibility or interoperability of certified EHR technology, as part of being a meaningful EHR user. CMS-9115-F page 25574.
- Section 106(b)(2)(B) of MACRA made corresponding amendments to section 1886(n)(3)(A)(ii) of the Act for eligible hospitals and, by extension, under section 1814(l)(3) of the Act for CAHs. CMS-9115-F page 25574.
- Exceptions to Information Blocking[3]

c) Patient Claims and Encounter Data[4]

- CMS is finalizing this policy as proposed that payers **make available through the Patient Access API, no later than one (1) business day after the information is received**: (1) Adjudicated claims, including claims data for payment decisions that may be appealed, were appealed, or are in the process of appeal, and (2) encounter data. CMS reiterates that this is one (1) business day after the claim is adjudicated or encounter data are received. This allows for potential delays in adjudication or delays in providers submitting their encounter data.

[2] Access at: https://www.healthit.gov/topic/information-blocking

[3] Access at: https://journal.ahima.org/understanding-the-eight-exceptions-to-information-blocking/
https://www.ama-assn.org/system/files/2021-01/information-blocking-part-1.pdf

[4] Access at: https://www.federalregister.gov/d/2020-05050/p-311

- It does not require payers and providers to change their contractual relationships or current processes for receipt, though **CMS strongly encourages payers and providers to work together to make patient data available in as timely a manner as possible.**
- Having access to this information within one (1) business day could empower patients to have the information they need when they need it to inform care coordination and improve patient outcomes.

Based on the aforementioned summary of the CMS Interoperability Mandate, and as part of your obligations under the PSA, MSO hereby further exhorts and appreciates that Provider duly and fully complies with his/her obligations in the provision of health services for the benefit of all our beneficiaries.

For any questions or concerns, please contact Provider Services, at 787-993-2317 or 1-800-676-6060.

Cordially,

Nelson Pérez Surillo
Vice President, Contracting

c. Eyminel Viel, Esq, *Deputy General Counsel*

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