Shining a Light on the Sunshine Act
Open Payments
Implementation of Section 6002 of the Affordable Care Act

Center for Program Integrity
January, 2014

CMS Disclaimer: This information is a summary of the final rule implementing the Open Payments (Medicare, Medicaid, Children’s Health Insurance Programs; Transparency Reports and Reporting of Physician Ownership or Investment Interests [CMS-5060-F], codified at 42 CFR Parts 402 and 403) The summary is not intended to take the place of the final rule which is the official source for information on the program.
Open Payments is a national transparency program requiring **certain manufacturers and group purchasing organizations** to disclose their financial relationships with physicians and teaching hospitals

<table>
<thead>
<tr>
<th>Objectives</th>
<th>CMS’ Role</th>
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<td>• Make certain financial relationships transparent on a national scale</td>
<td>• Remain neutral and present the data on a public website</td>
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<td>• Give consumers the information needed to ask questions and make</td>
<td>• Ensure reporting and disclosure are complete, accurate, and clear</td>
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<td>more informed decisions about their healthcare professionals</td>
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INDUSTRY-PHYSICIAN RELATIONSHIPS

• Collaborations between physicians and the medical industry can be beneficial by promoting discovery and development of new technologies that improve health and/or lower costs.

• Financial relationships may also influence professional judgment and conflicts of interest can potentially arise.
• Section 6002 of the Patient Protection and Affordable Care Act (Transparency Reports and Reporting of Physician Ownership or Investment Interests)

• Final Rule: Medicare, Medicaid, Children’s Health Insurance Programs; Transparency Reports and Reporting of Physician Ownership or Investment Interests
  – Published February 08, 2013
• **Applicable manufacturers of covered products AND entities under common ownership with applicable manufacturers who also provide assistance and support** are required to annually report to CMS:
  – payments or other transfers of value made to **covered recipients** and physician owners/investors.
  – certain ownership or investment interests held by **physician owners or investors** or their immediate family members.

• **Applicable group purchasing organizations (GPOs)** are required to annually report to CMS:
  – certain ownership or investment interests held by physician owners or investors and their immediate family members.
  – payments or other transfers of value made to physician owners or investors.
• **Covered Recipient Physicians**
  - Doctors of Medicine/Osteopathy, Dental Surgery/Dental Medicine, Podiatric Medicine, Optometry, and Licensed Chiropractors
  - Legally authorized by the State to practice

Note, for the purpose of this program:
• Fellows are included in the definition of a covered recipient
• Physicians with no other relationship with CMS (e.g., through reimbursement) are included
• Medical residents are excluded from the definition of physicians
Covered Recipient Teaching Hospitals

- The hospitals that CMS has recorded as receiving a payment(s) under Medicare direct graduate medical education (GME), indirect medical education (IME) or psychiatric hospitals IME programs.
- List posted annually by CMS

Industry has been instructed for the 2013 program cycle:
- To collect and report using an institution’s legal business name
- To report data separately for each legal business name, TIN, and address combination appearing on the list

CMS has provided Industry with a supplement to the 2013 list is to ensure that applicable manufacturers and applicable GPOs are aware of the various institutions owned or operated by the legal entities, so they can collect the appropriate data; this should respond to various inquiries we have received.
PHYSICIAN OWNERS/INVESTORS
and Their Immediate Family Members

• Physician Owners or Investors

• Physician Owners or Investors’ Immediate Family Members:
  – Spouse
  – Natural or adoptive parent, child, or sibling
  – Stepparent, stepchild, stepbrother, or stepsister
  – Father-, mother-, daughter-, son-, brother-, or sister-in-law
  – Grandparent or grandchild
  – Spouse of a grandparent or grandchild
This program captures payments or other transfers of value:

- Paid directly to physicians and teaching hospitals (known as Direct Payments)
- Paid indirectly to physicians and teaching hospitals (known as Indirect Payments)

It also collects information on payments designated by physicians or teaching hospitals to be paid to another party (known as Third Party Payments)
Compensation for speaking at a continuing education program is not required to be reported, if all of the following conditions are met:

1. The program meets the accreditation or certification requirements and standards of the ACCME, AOA, AMA, AAFP or ADA CERP.
2. The manufacturer does not directly pay the physician speaker.
3. The manufacturer does not select the physician speaker nor does it provide the third party vendor with a distinct, identifiable set of individuals to be considered as speakers for the accredited or certified continuing education program.
2013 COLLELECTION YEAR

**Industry will:**
Collect information on payments and other transfers of value, as well as ownership or investment interests held by physicians and their family members

**Industry will:**
Register and submit 2013 information to CMS

**Industry will:**
Correct disputed information

**Physicians & Teaching Hospitals should:**
Keep track of payments and transfers of value made to you and be mindful of ownership and investment interests held by both you and your immediate family

**Physicians & Teaching Hospitals should:**
Register with CMS in order to receive notifications and information submitted by the industry

**Physicians & Teaching Hospitals should:**
Review your information for accuracy

**CMS Public Website:**
2013 Information Posted

- **August – December 2013**
- **Early 2014**
- **Early to Mid-2014**

Sep 2014
Q&A