

CMS Response to Public Comments Received for MAQI Demonstration

CMS-10673; OMB 0938-1354

The Centers for Medicare and Medicaid Services (CMS) received comments from the public related to CMS-10673 for Medicare Advantage Qualifying Payment Arrangement Incentive (MAQI) Demonstration. This is the reconciliation of the comments.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received one response to comment on its proposed data collection forms. The commenting organization supported CMS' proposals to allow Taxpayer Identification Number (TIN) level submissions and to implement other modifications focused on improving the data submissions process. This organization also shared concerns that the submission forms and privacy/confidentiality language, as drafted, do not adequately protect proprietary and confidential MA Plan information and may be subject to Freedom of Information Act (FOIA) requests. This organization also commented on the MAQI Demonstration design, however this was outside of the scope of this PRA package.

Response:

CMS appreciates the commenters' interest in the MAQI demonstration, which was announced in the Calendar Year (CY) 2019 Physician Fee Schedule proposed rule, and support for the modifications made to the submission forms. CMS also recognizes the sensitivity associated with the information we are collecting. We reiterate that CMS will keep information submitted by clinicians under the MAQI Demonstration confidential to the extent permitted by federal law. Additionally, we note that records that a submitter marks as confidential will be protected from disclosure to the extent permitted by federal law.

CMS is required by Federal law to respond to FOIA requests. However, there is also a statute that allow CMS to strip down or de-identify sensitive and confidential information as stated below:

- Protection of Proprietary information: Privileged or confidential commercial or financial information collected in this Form is protected from public disclosure by Federal law 5 U.S.C 552(b)(4), and Executive Order 12600.
- Protection of Confidential Commercial and/or Sensitive Personal Information: If any information within this request (or attachments thereto) constitutes a trade secret or privileged or confidential information (as such terms are interpreted under the Freedom of Information Act and applicable case law), or is of a highly sensitive personal nature such that disclosure would constitute a clearly unwarranted invasion of the personal privacy of one or more persons, then such information will be protected from release by CMS under 5 U.S.C. 552(b)(4) and/or (b)(6), respectively.