



**AMERICAN COLLEGE  
OF RHEUMATOLOGY**  
EDUCATION • TREATMENT • RESEARCH

Specialists in Arthritis Care and Research

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

**RE: Availability of Medicare Data for Performance Measurement; Proposed Rule; 76 Fed. Reg. 33,566; (June 8, 2011); CMS-5059-P**

Dear Administrator Berwick:

The American College of Rheumatology appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) proposed rule on *Availability of Medicare Data for Performance Measurement*. This proposed rule implements section 10332 of the *Patient Protection and Affordable Care Act* (the ACA).

The ACR is committed to the delivery of evidence-based and personalized care for patients with rheumatic disease. We recognize that, when properly implemented and utilized, quality measurement and improvement programs could improve healthcare quality and safety, simplify delivery, empower patients and significantly reduce the cost of care. The ACR supports the goals for quality improvement; however, we also recognize that quality and performance rating programs must be carefully considered and must appropriately account for practice settings, specialties, and patient populations within the health care system.

**The ACR signed on in support of the comments submitted by the American Medical Association regarding the availability of Medicare data for performance improvement and strongly urges CMS to consider more reasonable timelines and criteria. However, the College has an additional concern specific to rheumatology regarding the use of standardized and alternative measures which inappropriately rely on the use of non-billing codes submitted on Medicare claims. I have highlighted these concerns below.**

**Use of Standard and Alternate Measures § 401.708(a) and § 401.708(b)**

The ACR cautions that all claims based measures, even those which qualify as standardized measures, do not provide an accurate reflection of care provided when based strictly on the assessment of claims data. For example, many quality measures assessed through the PQRS program rely on the use of CPT-2 codes to indicate that a clinical action was performed. Providers who participate in the PQRS program through a qualified registry or EHR system rather than submitting through the claims system will not apply these CPT-2 codes to claims indicating that the quality action has been taken. As a result, providers will be penalized for failing to provide a non-billing code rather than failing to provide quality care.

***ACR Recommendation:*** *In order to avoid the unintended consequences resulting from the application of program measures that base quality and performance designation on non-billing codes applied to*



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*claims and fail to adequately assess measure exclusion criteria which is not typically captured in claims data, we recommend that CMS, in consultation with the appropriate stakeholders, carefully evaluate **each unique measure** to be considered for the program- including measures considered to be standard- to ensure that it is appropriate for the program. We believe that no measure should be given an express pass into the program to be utilized without thorough review by stakeholders.*

The ACR would like to work with CMS to define and draft measures appropriate for the sub-specialty of rheumatology for use in this program to address quality performance based on claims data.

The College appreciates the opportunity to comment on the proposed rule on Availability of Medicare Data for Performance Measurement. If you have any questions, please contact Itara Barnes at [ibarnes@rheumatology.org](mailto:ibarnes@rheumatology.org) or (404) 633-3777.

Sincerely,

David Borenstein, MD  
President, American College of Rheumatology