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Attention: CMS-9900-NC
P.O. Box 8013
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RE: CMS-9900-NC – Request for Information; Advanced Explanation of Benefits and Good Faith Estimate for Covered Individuals; published at Vol. 87, No. 179 Federal Register 56905-56912 on September 16, 2022.

Submitted electronically via <http://www.regulations.gov>

Dear Departments and OPM officials,

UnityPoint Health appreciates this opportunity to provide comments on this Request for Information (RFI) regarding Advanced Explanation of Benefits (AEOB) and Good Faith Estimate (GFE) for covered individuals. UnityPoint Health is one of the nation's most integrated health care systems. Through more than 32,000 employees and our relationships with more than 480 physician clinics, 40 hospitals in urban and rural communities and 14 home health agencies throughout our 9 regions, UnityPoint Health provides care throughout Iowa, central Illinois, and southern Wisconsin. On an annual basis, UnityPoint Health hospitals, clinics, and home health agencies provide a full range of coordinated care to patients and families through

more than 8.4 million patient visits.

UnityPoint Health appreciates the time and effort of the Department of the Treasury, the U.S. Department of Labor, and the Department of Health and Human Services (Departments) and Office of Personnel Management (OPM) in developing this RFI and respectfully offers the following comments:

TRANSFERRING DATA FROM PROVIDERS AND FACILITIES TO PLANS, ISSURERS, AND CARRIERS

The Departments and OPM have requested information on transferring data from providers and facilities to plans, insurers, and carriers.

Comment:

- *What issues should the Departments and OPM consider as they weigh policies to encourage the use of a Fast Healthcare Interoperability Resources (FHIR)-based Application Programming Interfaces (API) for the real-time exchange of AEOB and GFE data?*

With hospitals historically being the first to implement electronic health records (EHRs) and FHIR, our major concerns lie within the variation of FHIR versions, lack of version requirements, and variation in industry timelines. With multiple versions of FHIR and no version requirements, this puts limitations on a provider's ability to connect to certain application interfaces. There is no consistency in who is required to have FHIR, how to submit data, and when to submit data. This becomes a large challenge for providers who attempt to submit or receive data between plans, issuers, and carriers. Given these concerns and technology variation, UnityPoint Health does not utilize API for any plan, issuer, or carrier interfaces specific to AEOBs and GFEs. UnityPoint Health would encourage the Departments and OPM to take provider readiness as well as administrative and cost burdens into consideration when determining final timelines for FHIR-API use as it relates to information exchange for AEOBs and GFEs.

- *What privacy concerns does the transfer of AEOB and GFE data raise, considering these transfers would list the individual's scheduled (or requested) item or service, including the expected billing and diagnostic codes for that item or service?*

Listing an individual's schedule or requested services and diagnostic code poses a risk to an individual's privacy, specifically if an individual does not wish to share information with a plan subscriber (e.g. spouse, parent/guardian). Similar concerns arise for foster parents who have children covered under parental insurance plans. In addition, specific visit types such as behavioral health bring heightened privacy measures and will add another layer of complexity to the health care provider's or facility's administrative burden. In order for providers or facilities to remain compliant with privacy regulations, the provider or facility would need to obtain appropriate consent from the individual, most likely securing a documented e-signature before sending any information to plans, issuers, or carriers.

- *How could updates to this program support the ability of providers and facilities to exchange GFE information with plans, issuers, and carriers or support alignment between the exchange of GFE information and the other processes providers and facilities may engage in involving the exchange of clinical and administrative data, such as electronic prior authorization?*

In UnityPoint Health’s experience, many plans, issuers, and carriers have been unwilling to engage with health care providers and facilities on electronic exchange discussions related to prior authorization and notice of admission. Setting definitive standards related to the exchange in terms of what must be accepted by a plans, issuers, and carriers and response timeframes would certainly help to further the desire to alleviate the administrative burden of prior authorization.

- *Would the availability of certification criteria under the ONC Health IT Certification Program for use by plans, issuers, and carriers, or health IT developers serving plans, issuers, and carriers, help to enable interoperability of API technology adopted by these entities?*

Certification criteria should be implemented for plans, issuers, and carriers as well as health IT developers serving those plans, issuers, and carriers to ensure consistent streamlined functionality. Consistent requirements for interoperability are essential to the successful transfer of data.

- *What, if any, burdens or barriers would be encountered by small, rural, or other providers, facilities, plans, issuers, and carriers in complying with industry-wide standards-based API technology requirements for the exchange of AEOB and GFE data? Are there any approaches that the Departments and OPM should consider, or flexibility that should be provided?*

During a time when health care providers and facilities are already facing financial burdens related to labor and supply costs and considering there is still work to be done in solidifying approaches to providing GFEs for individuals, the timing to require establishing API connections is challenging at best. Today, the burden resides within the cost of resources to set up API interfaces with each plan, issuer, and carrier used in an individual market. Furthermore, small independent practices and rural facilities with low broadband availability and/or bandwidth will not have the capacity to implement these requirements. While current flexibilities exist for small practices, the gap in interoperability options has a ripple effect and can delay care delivery across other health care providers and facilities. The heightened administrative burden and cost calls to question the value an AEOB brings when a GFE already provides such value to individuals today. UnityPoint Health recommends utilizing a phased approach to allow providers, facilities, plans, issuers, and carriers time to financially plan and operationally establish API standard connections.

OTHER POLICY CONSIDERATIONS

The Departments and OPM have requested information on a number of other policy considerations around AEOB and GFE data submission.

Comment:

- *Should a nonparticipating provider of nonemergency services be required to inform a plan, issuer, or carrier, as part of or concurrently with the GFE, whether the requested or scheduled items or services would be furnished with respect to the individual’s visit to a participating facility? Should the nonparticipating provider or facility also be required to inform a plan, issuer, or carrier if the provider or facility intends to seek consent, or if the individual has already declined to give consent?*

This policy should consider whether a service has actually been scheduled. Part of the GFE goal should be to direct an individual to a provider or facility within the network in order to keep costs down for the individual. To provide a GFE to a plan, issuer, or carrier prior to having confirmed a service on the schedule does not provide added value for the individual. Additionally, if an individual has already denied consent, there is no added value to the individual by providing notification to the plan, issuer, or carrier.

- *If a nonparticipating provider is required to inform a plan, issuer, or carrier about the facility in which services are scheduled to be furnished, or if a nonparticipating provider or facility is required to inform a plan, issuer, or carrier about the status of a consent to waive the No Surprises Act's balance billing and cost-sharing protections, how should the nonparticipating provider or facility communicate the information?*

If a nonparticipating provider is required to inform a plan, issuer, or carrier about the facility in which services are scheduled to be furnished, or about the status of a consent to waive protections, this information should be communicated through a separate document outside of the GFE.

- *Generally, how should the AEOB reflect the way in which the No Surprises Act's or a State's surprise billing and cost-sharing protections may affect an individual's benefits related to the items or services specified in an AEOB, and the individual's financial responsibility for these items or services?*

AEOBs should be very clear that the individual will most likely have a greater financial responsibility should they choose to receive services out-of-network and should include information about the individual's financial cost savings if the individual decides to pursue care with an in-network provider or facility.

- *In instances in which the plan, issuer, or carrier, at the time it is preparing the AEOB, has knowledge that the No Surprises Act's or a State's surprise billing and cost-sharing protections would apply unless individual consent has been given, but the plan, issuer, or carrier does not know whether consent has been given by the individual to waive those protections, should the AEOB include two sets of cost and benefit data, one set that would apply if consent is given, and one set that would apply if consent is not given?*

In these instances, both sets of cost and benefit data should be provided.

- *Are there reasons why the Departments and OPM should or should not propose a requirement that plans, issuers, and carriers provide a copy of the AEOB to the provider or facility, as opposed to allowing such a transfer but not requiring it?*

UnityPoint Health does not support a requirement to provide a AEOB copy. There is minimal added value to the individual if an AEOB is provided in addition to the GFE; however, this requirement potentially delays services while providers or facilities are waiting for a plan, issuer, or carrier to provide an AEOB.

- *What approaches should be considered when proposing requirements related to the AEOB and GFE that account for, or do not account for, secondary and tertiary payers?*

The time involved in considering not only a primary but secondary and tertiary plan, issuer, or

carrier, as well as the time to receive an AEOB and create a GFE, are significant factors in delaying patient care. Secondary plans, issuers, and carriers typically do not adjudicate a claim until the primary plan, issuer, or carrier has responded. Inclusion of secondary and tertiary plans, issuers or carriers would make it difficult to ascertain a clear and timely AEOB.

- *What factors should the Departments and OPM consider when determining what items or services have low utilization or significant variation in costs (such as when furnished as part of a complex treatment) for the purposes of modifying AEOB timing requirements, and why? Additionally, how should AEOB timing requirements be modified with respect to the specified items or services, and why?*

UnityPoint Health is particularly concerned about how this rule may impact the timely delivery of items or services for individuals requiring complex treatment. As an example, GFE and AEOB timing and specificity requirements further complicate timely and precise care delivery needed for infusion and oncology services, which are often complex and fluid in their approach, as well as certain pharmaceutical treatments involving specific administration timing to maintain patient care protocols. Short timeframes for GFEs and AEOBs will make timely care to individuals requiring complex treatments very difficult. UnityPoint Health would recommend infusion and oncology services be exempt from the AEOB and GFE requirements due to the sensitive and complex nature of these services and the potential severe impact resulting from delays in care delivery. The Departments and OPM should consider other similarly situated items and services for exemption from these requirements.

- *What, if any, additional burden would be created by requiring providers, facilities, plans, issuers, and carriers to conduct coverage verification?*

In the health care setting, coverage verification is already conducted as part of the normal course of business. However, it is important to note there is minimal standardization by plans, issuers, and carriers in how verification is confirmed, nor is there a legal requirement of plans, issuers, and carriers for timeliness to keep this information updated. For example, it is not uncommon for plans, issuers, and carriers to report through an electronic Real Time Eligibility response that an individual is a covered member, only for a provider or facility to discover at the time of claims processing that a member's coverage has expired.

- *Would it alleviate burden to allow providers and facilities, for purposes of verifying coverage, to rely on an individual's representation regarding whether the individual is enrolled in a health plan or coverage and seeking to have a claim for the items or services submitted to the plan or coverage?*

UnityPoint Health would not recommend this approach. This poses considerable risk from a customer service point of view. Often individuals have a limited understanding of what, if any, coverage they may be enrolled in for a visit. If a provider or facility relies on the individual's identification of current coverage, they may be unable to assist the individual in mitigating a higher than expected out-of-pocket financial responsibility.

- *What unique barriers and challenges do underserved and marginalized communities face in understanding and accessing health care that the Departments and OPM should account for in*

implementing the AEOB and GFE requirements for covered individuals?

The primary challenges are typically those of language barriers and lack of understanding of how the health care system works in terms of insurance coverage and other health care financing options. One of the primary struggles currently faced by underserved and marginalized communities is an overall lack of resources to assist with communication as well as a perceived lack of trust of the health care industry in general. Simply providing a GFE and an AEOB isn't enough to solve for these challenges. The best way to address these barriers is by providing navigator assistance, similar to what is provided within the Marketplace enrollment options in several states. To provide this level of service requires resources that must be funded by the federal government. UnityPoint Health would recommend CMS compensate on a per contact basis for navigator services provided by health care providers or facilities. Not only will this approach allow providers or facilities to serve a diverse population, but it would allow providers or facilities to financially sustain a robust approach to serving underserved and marginalized communities.

- *Should the Departments and OPM consider adopting AEOB language access requirements that are similar to the Departments' existing requirements for group health plans and health insurance issuers?*

Yes, the language requirements in place today for the GFE and No Surprises Act notifications should be required for the AEOB.

ECONOMIC IMPACTS

The Departments and OPM have requested information on economic impacts, specifically, estimates of resources and financial burdens on providers and facilities.

Comment:

- *The Departments and OPM are interested in estimates of the time and cost burdens on providers and facilities, and separately on plans, issuers, and carriers, for building and maintaining a standards-based API for the real-time exchange of AEOB and GFE data.*

UnityPoint Health recommends a phased approach in deploying API connectivity for providers and facilities. The financial burden to build and maintain standard-based API for real-time exchange of data is considerable. UnityPoint Health is a multi-state health system with a robust Information Technology arm, and we estimate it takes an average 40 hours of time and effort for two to three months per connection. This per connection estimate will need to be multiplied to establish connections with hundreds of plans, issuers, and carriers. Many health care providers and facilities do not have these plan, issuer, and carrier API connections in place today and will not be able to leverage current work to establish future API connectivity. It is imperative for the Departments and OPM to consider the time, effort, and costs of building, testing, and implementing these connections.

- *How does establishing standards-based APIs for these purposes align with other Department of*

Health and Human Services program requirements to implement standards-based APIs, such as requirements for certain payers covered under the CMS Interoperability and Patient Access final rule to use specific standards to implement the Patient and Provider Access APIs, as well as requirements applicable to health IT developers with health IT modules certified to certain criteria under the ONC Health IT Certification Program that provide standards-based API technology to providers and facilities as part of certified health IT products?

UnityPoint Health has already implemented interoperability connectivity for care delivery and quality reporting; however, the connection for financial and eligibility information is very different. In our experience, plans, issuers, and carriers have thus far been unable to establish similar connectivity for financial interactions such as notice of admission and prior authorization, despite established API connectivity for the interoperability standards.

- *What would be the costs for purchasing and implementing a standards-based API for the real-time exchange of AEOB and GFE data from a third-party vendor, compared to building standards-based API functionality in-house?*

UnityPoint Health incurred additional cost when implementing the GFE process and, as such, we expect that implementing a third-party vendor solution would be associated with additional labor and infrastructure cost. Historically, third-party vendors have been more costly than establishing an API connection via an internet portal. Considering the current financial burdens on health care providers and facilities related to bed availability, contract labor, pharmacy, and supplies shortages, a proposal to purchase and implement a third-party vendor solution to manage GFE and AEOB would be especially onerous.

We are pleased to provide input related to this RFI and its impact on our providers and health system, our patients, and communities served. To discuss our comments or for additional information on any of the addressed topics, please contact Cathy Simmons, Executive Director, Government & External Affairs at cathy.simmons@unitypoint.org or 319-361-2336.


Sincerely,



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