



Insights

CMS Warns “Beware of the Company You Keep” In New Sanctions Rule

September 16, 2019

By: Brandon W. Shirley and Meghan M. Linvill McNab

In a new rule effective November 4, 2019, the Centers for Medicare & Medicaid Services (“CMS”) expanded Federal and State authority to punish providers with a troubled history or for affiliating with “bad actors” (the “New Rule”). In announcing the New Rule, CMS Administrator Seema Verma highlighted the inefficiencies of the current system in preventing repeat offenders from returning as participating providers, and stated that the current rules are intended to “[lock] the door to the vault.” The New Rule applies to providers in the Medicare and Medicaid programs.

In general, the New Rule requires Medicare, Medicaid, and CHIP providers to make certain disclosures of any current or previous direct or indirect affiliation with providers: (i) having uncollected debt; (ii) having been previously subject to a payment suspension; (iii) having been excluded or having billing privileges denied; or (iv) who pose an “undue risk of fraud, waste, or abuse.” The New Rule defines many of these key terms.

With respect to a providers’ Medicare participation, the New Rule also gives CMS authority to revoke a provider’s Medicare enrollment when: (i) the entity is currently revoked under a different name; (ii) the provider billed from a location that it reasonably should have known did not comply with Medicare enrollment requirements; or (iii) the provider has a pattern of ordering services that is abusive or threatens the health and safety of Medicare beneficiaries or does not meet Medicare requirements. CMS may also increase the reenrollment bar from 3 to 10 years, subject to certain exceptions.

State and Federal agencies may need some time to implement these new enrollment and program integrity requirements. However, Medicaid and Medicare providers and suppliers should promptly assess their ownership relationships and compliance programs as soon as possible to accommodate the new changes and take those steps necessary to achieve compliance.

Please contact Brandon W. Shirley at [or](#) Meghan M. Linvill McNab at [if](#) you have questions about this rule or need assistance with your organization’s compliance program.