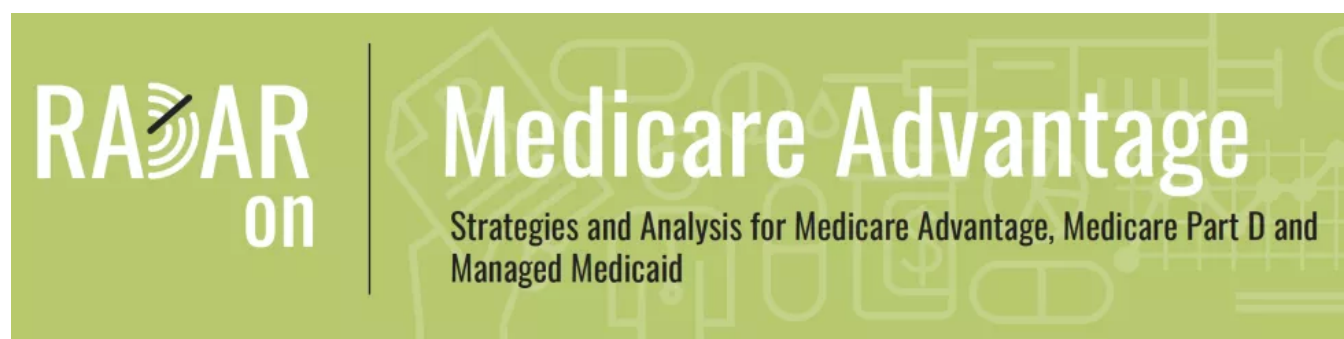


EXECUTIVE BRIEFING

Rewards and incentives rule has compliance, stars implications

| DEC 16, 2021

<https://www.healthscape.com/insights/rewards-and-incentives-rule>



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Although it may have gone largely unnoticed by Medicare Advantage plans this year, a clarification regarding rewards and incentives (R&I) programs embedded in an 894-page final rule issued in January 2021 could have significant implications for plans' star ratings strategy in addition to posing compliance risks and added costs in 2022. Industry experts say now is the time for plans to get compliant with the provision, which goes into effect on Jan. 1, 2022, and to begin rethinking their R&I programs to incentivize healthy behavior across the broader MA population and not just those members who are falling behind in their star measures.

An R&I program is offered by an MA plan to qualifying individuals to voluntarily participate in specified “health-related” activities in exchange for reward items. Such items can include points or tokens used to acquire tangible items or a gift card for a specific retailer but may not be offered in the form of cash, cash equivalents (e.g., VISA gift card), other monetary rebates (e.g., reduced cost sharing, premium rebates), or — as the 2022 MA and Part D final rule clarified — an Amazon gift card. That rule also for the first time formally defined “qualifying individual” to include: (1) “any plan enrollee who would qualify for coverage of the benefit” if related to a “plan-covered health benefit,” and (2) “any plan enrollee” if related to a “non-plan-covered health benefit.”

Prior communication from CMS has stated that rewards must be offered uniformly and without discrimination to all enrollees who qualify for the incentivized service, but plans' approach to R&I programs has historically been "pretty HEDIS-centric," explains Melissa Newton Smith, executive vice president, consulting and professional services with Healthmine. In other words, plans typically relied on HEDIS denominator and/or numerator status to target R&I participants and improve related star measures, but that practice would now be considered discriminatory.

This is CMS's way of clarifying and creating "a more level playing field for the consumers," weighs in Cary Badger, principal with HealthScape Advisors LLC. "The original intent [of R&I programs] was to reach the members who otherwise don't engage in these activities, so they were trying to do more targeted outreach. And from a population health basis, that's typically how it's done. It's just that there's an equality rule that CMS needs to be observant of when they apply these rules that they really didn't stress in the early days" of R&I programs.

Providing an example of a plan-covered benefit, CMS explained that rewards tied to breast cancer screening must be available to all members for whom a mammogram is covered as a plan benefit, such as men for whom mammograms are medically necessary and female members with advanced illness for whom the screening is covered.

Additionally, the rule clarified that disputes regarding R&I in MA are grievances, which must be handled in compliance with Section 30 of the Medicare Managed Care Manual, and it formalized that noncompliance with CMS R&I program requirements may result in sanctions.

"Until the current time, CMS has never issued notices of noncompliance, sanctions, [etc.] based on any plan's operation of R&I programs, so plans have indeed been very creative in their administration of these programs because they never felt like it was in the CMS regulatory cross hairs until this rule came out," remarks Smith. And plans have historically focused their R&I programs on a narrow group of activities related to stars because (a) they have competing priorities and (b) "it's a lot easier to justify transactions that drive immediate star needs and to get those programs approved internally than it is to justify programs where the rewards and incentives have long-term payback on medical spend over a multiyear period."

HealthScape expects that plans will ultimately take a more global approach to their R&I programs and refocus on activities such as the initial wellness visit, where multiple screenings that could impact star measures could be conducted, suggests Badger. "We think clients still will want to do incentives because it's important for the beneficiaries and another way of engaging the member," he says.

Plans Are Likely to Rethink R&I Programs

"Members have become used to the incentives, so whenever you remove things, members don't like to perceive that things are being taken away," adds Alexis Seeder Levy, managing director with HealthScape. "So I don't think you're going to see incentives go away; I think they're just going to be deployed differently in the future to have incentives that are going to cover multiple things as opposed to an incentive around a specific activity related to a measure."

Those changes are likely to take effect for the 2023 plan year, given that bids are due in June and it will take plans some time to work with vendors to redesign their R&I programs. In the meantime, plans will have to be compliant and extend the rewards to anyone who can receive the related benefit, which could create some added cost in 2022, suggests Badger.

Based on her conversations with colleagues and Healthmine's star ratings stakeholder groups, Smith has learned that many plans aren't even aware of the changes taking effect on Jan. 1 and that most plans are still trying to figure out how to operationalize the program changes necessary to be compliant. "Not all of the vendors in this space offer easy turnkey solutions that automatically comply with these new regs, so a lot of plans are wondering if they have to change vendors to achieve compliance, or do they have to build different, internal analytics or add a new analytics function to their programs operations?" she tells AIS Health.

For those plans that are just getting wind of the change, Smith makes the following recommendations:

Immediately alert your compliance and/or legal department to look at the language in the rule, determine how it impacts your practices and develop a compliant approach;

Consider all "edge conditions" to avoid discriminatory behavior (e.g., conditions of age, health status, gender or continuous enrollment), and determine what kind of reworked R&I program you can afford that meets the expanded eligibility criteria; and

Think outside the box. Plans might consider incentivizing more behaviors in that category of non-covered benefits, she suggests. These could include "lifestyle activities" such as exercising, volunteering, eating healthy or attending a community service event. "Those are the things we want members to do to be healthy, but most plans have not offered it because it was too indirectly linked to stars," observes Smith.

"The star measures have changed so much that there aren't many directly measured stars activities that can be rewarded and incentivized using HEDIS measures criteria," she adds. "So my recommendation is to really get creative and incentivize good, healthy behavior that reflects your plan's passion and unleashes health and wellness activity to truly drive holistic health and wellness. Think bigger, not smaller, about how to take on this regulatory change."

By Lauren Flynn Kelly