

# PUBLICATION

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## Delayed ETA for EPMs – CMS Delays New Bundled Payment Models

March 24, 2017

On March 21, 2017, CMS issued the anticipated delay related to the new Episode Payment Model (EPM) bundled payment program regulations that were finalized in January. The rule, [Advancing Care Coordination Through Episode Payment Models \(EPMs\); Cardiac Rehabilitation Incentive Payment Model; and Changes to the Comprehensive Care for Joint Replacement Model; Delay of Effective Date](#), delays the effective date from March 21, 2017 to May 20, 2017, and delays the start date for the EPMs and updated CJR regulations from July 1, 2017 to October 1, 2017. The rule was issued as an Interim Final Rule with Comment and is effective upon publication. CMS is accepting comments on the delay, particularly on the possibility of extending it further.

CMS notes that the three-month delay is necessary to provide additional time for review and to ensure that, if such review leads to modifications to the EPM bundled payment program regulations, adequate notice and comment may be undertaken. CMS intends to ensure that participants in the programs have a "clear understanding of the governing rules" for any changes made. Accordingly, the agency will make any necessary modifications *before* the programs are initiated and provide participants with adequate notice of such changes, rather than implement the program under the original regulations and possibly make changes shortly thereafter. CMS is also considering the length of the episodes. The final rule set the first episode at six months, which CMS believes is an appropriate minimum duration of an episode. CMS also notes that implementing the episodes on a calendar year schedule may be less burdensome for participants, and, to allow for such, is considering a delay until January 1, 2018. Any additional delay of the EPM start date will also delay the effective date of conforming regulations for CJR.

### Comments

In our overview of the new bundled payment program regulations, [\*New Bundled Payments Are a Go . . . For Now\*](#), we noted that a delay was likely under the new administration. Based upon the language of the most recent delay, it appears very likely that the rule will be further delayed, until at least January 1, 2018, once CMS has an opportunity to review any comments received in response to the current delay. The extension provides hospitals with additional time to prepare but at this point, what they are preparing for remains uncertain with respect to the EPM program. It is unclear whether CMS will propose significant modifications to the rule, remove the mandatory nature of the program in the select service areas and offer EPMs to hospitals choosing to participate, or possibly further delay the model beyond January 1, 2018, without further clarification of how the program may change. Hospitals in the selected EPM service areas should stand by for additional Baker Ober Health Law updates regarding further CMS guidance and the preparations necessary for implementation of this program.