The VBP Program Integrity Workgroup was charged with a mission to identify what changes can be made to the current program integrity infrastructure to ensure a robust program integrity model is in place that protects providers, payers, enrollees and the State's objectives in a Value Based Payment environment. The following recommendations are the result of three in-person meetings of the Workgroup. The Workgroup recognizes that transition to VBP is an evolving process and that additional recommendations may need to be developed during the rollout.

Recommendations

1) Effective Leverage of Current Encounter Reporting and Enforcement Process

Policy Question: Can the existing encounter reporting and enforcement process be leveraged more effectively in support of VBP?

Implementation Mechanisms that Require Change:

☐ State Legislation ☐ Model Contract ☐ DOH Policy ☐ Other

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Description:

The transition to VBP will increase the need for accurate, timely, and complete data submissions both from health plans to the State and from providers receiving capitated or alternative payments from health plans. This data is needed for use in the development of target budget amounts, capitation pricing, and claims-based quality measurement. In each of these cases, program integrity efforts that attempt to evaluate the propriety of payments made will also be dependent upon the availability, accuracy and integrity of encounter data.

Recommendations:

I) NYS and health plans, in consultation with providers, should formalize protocols for any new criteria for encounters to be submitted by VBP contractors to the health plan as part of their claim as well as for the health plan review of provider-submitted claims of VBP contractors consistent with HIPAA transaction requirements. Health plans may involve their Special Investigations Units, their Compliance Programs, or claims review units, as applicable.

a. Health plan reviews should continue their program integrity efforts in accordance with indications of potential fraud waste, and abuse, regardless of payment arrangement, and also be mindful to focus adequate investigative efforts on VBP contractors due to the possibility of greater challenges associated with the transition to VBP. Corrective action and

referral obligations to SDOH and OMIG must be made in accordance with contractual requirements.

b. Formalized protocols should seek to ensure consistent reporting across plans and up-front accuracy and completeness of claims and other data associated with both retrospective and prospective VBP. Encounter data must reflect what is submitted on claims.
c. NYS should provide reporting parameters for plans to demonstrate comprehensiveness of the health plan review activity. Reports will provide insight into level of VBP investigation and quality of provider submissions.
d. Develop exception reports, specific to VBP contractors, which are data-driven and provide the opportunity to flag reported behavior that is divergent.

II) Current State Assessment & Future State Design of Encounter Intake System:

a. Perform an evaluation of the current Encounter Intake System including ensuring that Referring, Prescribing, and Ordering provider information is capable of and is being reported, and further focus on supporting VBP program integrity. Consideration can be given to data elements and measures that are integral to VBP by adding new edits or adjusting the encounter intake process, if necessary and based on the situation.
b. The Department of Health should consider adjusting and/or adding appropriate encounter data flags, edits, and fields as necessary to adjust for VBP. The Department of Health should consult with appropriate oversight agencies, including MFCU and OMIG, as well as health plans and providers in the development of these fields.
c. Assess the extent to which recent changes to policies and procedures are expected to impact data integrity (e.g., the increasing reliance on encounter data to risk adjust rates is expected to improve integrity beginning in SFY 16). This assessment could be performed as a component of the audit of plan-submitted encounter data, or other means.
d. The entity that performs the evaluations outlined in this recommendation will announce findings of the assessment with the intent of soliciting and considering stakeholder input prior to implementing modifications to the process.

2) Data Sources and Enhancements to Ensure High Quality Submission

Policy Question: Aside from encounter data, are there other sources of data, or potential enhancements to data sources, that could potentially serve to ensure that NYS is able to collect high quality submissions (i.e. MMCOR, RHIO, other)?

Implementation Mechanisms that Require Change:

☐ State Legislation ☐ Model Contract ☐ DOH Policy ☐ Other

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Description:

The workgroup proposed developing a recommendation that the VBP risk adjustment process, coupled with the use of secondary data sources to test encounter data validity, could improve encounter data reporting.

Recommendation:

I) The State's data protocol should compare encounter data against other relevant data for VBP quality and efficiency-related fields.

a. Establish a mechanism for comparing plan-submitted encounters against other relevant data, and automatically flagging discrepancies for further review.
b. Secondary data will be used for the purposes of developing metrics, following up with providers on identified outliers, and taking corrective action as appropriate
c. Develop a framework for the potential sharing of the health records and quality of care data found in Uniform Assessment System (UAS), the RHIOs, and other sources with the relevant stakeholders, to support program integrity through retrospective analysis.
d. Patient confidentiality safeguards should be evaluated and updated to ensure that other relevant data are used to ensure data timeliness, accuracy, and completeness within the scope of patient privacy and other applicable laws, consistent with the recommendations developed by the Patient Confidentiality Workgroup.

3) Policy Design

Policy Question: What framework should be put in place to ensure that the transition to VBP does not create incentives contrary to the spirit of the program?

Implementation Mechanisms that Require Change:

☐ State Legislation ☐ Model Contract ☐ DOH Policy ☐ Other

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Description:

As New York State's (NYS) Medicaid delivery platform shifts to toward Value Based Payment, the alignment, and measurement of the policy and goals outlined through the VBP Roadmap to incentivize high-value healthcare delivery is a key component of VBP PI. The accuracy of this information is paramount to understanding the impact of NYS' VBP delivery platform, and whether the program is operating effectively. Further, such measurement permits informed policy adjustment. Indeed, as with any enterprise-wide delivery transformation, misaligned policy design may create undesired consequences contrary to original intent. NYS should provide health plans with criteria to implement the recommendations below, evaluate outcomes, and take corrective measures.

Recommendations:

I) Evaluate existing patient access and experience measures and supplement with additional relevant measures (e.g. review case closures and reductions in service delivery), as necessary, for the purposes of evaluating changes in access due to implementation of VBP. Upon identification of additional measures, provide the opportunity for industry comments on proposed metrics prior to implementation.

II) Implement mandatory reporting of access measures and collection of patient experience measures to identify potentially inappropriate withholding of services.

III) Implement specific oversight efforts to prevent inappropriate targeting of populations in an effort to achieve desired cost and outcomes measures. Create policy that addresses appropriate and inappropriate transfers of patient designation between clinical groups to prevent inappropriate maximizing payment for services.

IV) Recognizing the existing financial mechanisms designed to protect against provider losses (e.g., financial security deposit, stop loss etc.) set the standard that VBP arrangements continue to have the appropriate financial protections in place.

4) Payment Integrity

Policy Question: What Program Integrity infrastructure, if any, needs to be changed in order to establish a solid foundation for Medicaid payment integrity as it relates to VBP implementation in NYS?

Implementation Mechanisms that Require Change:

☐ State Legislation ☐ Model Contract ☐ DOH Policy ☐ Other

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Description:

The transition to VBP may present potentially different avenues for fraud, waste, and abuse in the Medicaid environment. For example, Level 3 VBP arrangements involve a prepaid capitation arrangement in which many management and administrative functions are delegated by the health plan to an intermediary entity (e.g., an IPA or ACO). This may pose incremental risks of underutilization, denial of medically necessary services, and compromised access. Additional FWA risks that may arise include potential violations of the anti-kickback and Stark laws, and possible safe harbors, the potential for fraudulent payments, and default risk reserves. That said, assessment of these risks will need to be consider the VBP program requirement that any upside payments are contingent upon not just financial performance, but quality performance and outcomes

measures as well. Oversight and enforcement agencies must expand their focus in response to these changes and while continuing to conduct recovery activities related to improper Medicaid payments.

Recommendations:

I) Encourage further coordination and alignment activities among the State-level agencies involved in payment integrity efforts. Agencies should make public developments in their tools and processes as a result of this collaboration as well as provide the opportunity for industry comments prior to implementation.

II) Perform a separate gap analysis for Level 2 and Level 3 VBP arrangements and develop an educational infrastructure that allows for agencies to adjust monitoring and audit protocols in response to evolving issues and to develop and distribute guidelines, as well as provide the opportunity for ongoing education.

III) As the transition to VBP Level 3 arrangements occurs, ensure that claims data is submitted to plans in accordance with statutory or contractual timeframe and encounter data is submitted to the State in a timely manner.

IV) Provide guidance to organizations who are required to – many of which for the first time – develop and implement compliance plans required as a result of their participation in VBP.

V) Extend the DSRIP IT Target Operating Model to the VBP program integrity concerns. To the extent possible, consider eliminating barriers to collaboration similar to the 1115 waiver.