

Trump's HHS Explores Health Privacy Changes to Bolster Care

By Shira Stein

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- HHS issues request for public comment on changes to HIPAA
- Agency looking at how changes could combat opioid crisis

The Trump administration is looking at how doctors, hospitals and other health-care providers share health data, who they share it with, and how they organize their information sharing, the No. 2 official in the Department of Health and Human Services said in an interview with Bloomberg Law.

The HHS has issued a request for public comments on how the department can foster improved care coordination by making changes to the Health Insurance Portability and Accountability Act (HIPAA).

Eric Hargan, the deputy HHS secretary, described the latest effort by the Trump administration to get input on changing the health-care regulatory landscape.

The HHS Office for Civil Rights issued the request for information Dec. 12 as part of a larger administration effort to promote payment reimbursement for health care based on patient outcomes instead of numbers of procedures. This request for information follows RFIs from the administration on physician self-referral, known as the Stark law, and the anti-kickback statute.

The agency had previously put out guidance that hospitals could share information about overdoses with family members, but “people are so nervous about HIPAA and about violating it, that they really are going to need something stronger from the relevant agency” for them to make those changes, Hargan said.

The agency is going to be looking at whether or not an entity should be required to share information in certain instances, Hargan said.

The department requires “picky accounting” for how information is disclosed, so officials want to know if there is a way to reduce the reporting burden and still maintain protections, Hargan said.

The request seeks for input on provisions of HIPAA that create obstacles to care coordination without meaningfully contributing to the privacy and security of patient's health-care information. The administration is looking for input on how they can address the opioid crisis through changes to HIPAA and how they can facilitate the involvement of parents in patient care.

The request also asks for input on potentially creating a safe harbor for disclosures of protected health information to allow for care coordination, disclosure of protected health information without authorization for treatment or payment, and the minimum standards for care coordination and case management, instead of just treatment, Hargan said.

This could include coordination of wellness activities and public health of diabetes or hypertension, not just treatment, he added. Safe harbors are conduct the government specifically says will not violate an existing law.

"We are looking for candid feedback about how the existing HIPAA regulations are working in the real world and how we can improve them," Roger Severino, director of the HHS Office for Civil Rights, said in a statement.

Comments are due Feb. 12 on the latest RFI (RIN 0945-AA00), which is set for Dec. 14 Federal Register publication.

The HHS has asked four agencies—the Centers for Medicare & Medicaid Services, the inspector general's office, the civil rights office, and the Substance Abuse and Mental Health Services Administration—to put out RFIs on laws that stand in the way of coordinated care.

The SAMHSA will ask for information on potential changes to privacy rules for drug-addiction treatment records, known as Part 2 rules, which require doctors to get approvals from their patients every time they share their drug treatment records with other doctors.

The American Medical Informatics Association and the American Health Information Management Association have expressed concern that the current structure of HIPAA is making it difficult for patients to access their health data.

The two groups have recommended the HHS create a new set of health data that includes clinical, biomedical, and claims data that patients can access electronically. They also suggested the department revise the definition of the group of records for a patient, known as a designated record set.

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