Summary: Requires the Secretary to establish a physician compare website. Also provides the Centers for Medicare and Medicaid Services (CMS) with the additional authority to release certain Medicare data to qualified entities for the evaluation of the performance of services and suppliers.

Status update: On July 1, 2011, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule that would update payment policies and rates for physicians and nonphysician practitioners (NPPs) for services paid under the Medicare Physician Fee Schedule (MPFS) in calendar year (CY) 2012, including proposed changes to the Physician Compare Website.

Next steps:
- June 25, 2010 – CMS issues regulations regarding the physician compare website.
- August 24, 2010 – Comments due to the CMS regarding the proposed rule.
- August 27, 2010 – CMS announces a listening session in the Federal Register.
- September 20, 2010 – CMS listening session regarding the implementation of this section.
- September 24, 2010 – CMS announces a town hall regarding the implementation of this section.
- October 13, 2010 (5 pm) – Registration closes for the CMS town hall on October 27.
- October 27, 2010 – CMS town hall regarding the implementation of this section.
- Not later than November 1, 2010 – CMS will respond to comments.
- December 30, 2010 – CMS issues press release announcing the launch of the first phase of the physician compare website.
- January 1, 2011 – New payment rates and policies will apply, including policies related to the physician compare website.
- By January 1, 2011 – Secretary must establish a physician compare website for entities participating in the Physician Quality Reporting Initiative (PQRI).
- June 8, 2011 – CMS issued a proposed rule with comment period in the Federal Register regarding the release of certain Medicare data to qualified entities.
- August 8, 2011 – Comments due to June 8, 2011 proposed rule.
- January 1, 2012 – Section 10332 goes into effect.
- By January 1, 2013 – Performance information must be included (related to information collected during the measurement period beginning January 1, 2012).
- Not later than January 1, 2015 – Secretary provides a report to Congress regarding the website and may expand the program to other health care professionals.
- Not later than January 1, 2019 – Secretary may establish a demonstration program to steer Medicare beneficiaries toward high quality clinicians.
Additional information:

- June 3 CMS press release -- [http://www.cms.gov/apps/media/press/release.asp?Counter=3977&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=1%2C+2%2C+3%2C+4%2C+5&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date](http://www.cms.gov/apps/media/press/release.asp?Counter=3977&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=1%2C+2%2C+3%2C+4%2C+5&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date)
- December 30 Centers for Medicare and Medicaid Services press release -- [http://www.cms.gov/apps/media/press/release.asp?Counter=3890&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=1%2C+2%2C+3%2C+4%2C+5&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date](http://www.cms.gov/apps/media/press/release.asp?Counter=3890&intNumPerPage=10&checkDate=&checkKey=&srchType=1&numDays=3500&srchOpt=0&srchData=&keywordType=All&chkNewsType=1%2C+2%2C+3%2C+4%2C+5&intPage=&showAll=&pYear=&year=&desc=&cboOrder=date)
- CMS release of Medicare Claims data to track the use of preventive services -- [http://www.cms.gov/PrevntionGenInfo/20_prevserv.asp](http://www.cms.gov/PrevntionGenInfo/20_prevserv.asp)
- CMS release of Part D claims data “for the purposes of research, analysis, reporting, and public health functions” -- [http://www.cms.gov/PrescriptionDrugCovGenIn/08_PartDData.asp](http://www.cms.gov/PrescriptionDrugCovGenIn/08_PartDData.asp)
- CMS release of limited data sets -- [http://www.cms.gov/LimitedDataSets/01_Overview.asp#TopOfPage](http://www.cms.gov/LimitedDataSets/01_Overview.asp#TopOfPage)
- Health Affairs article regarding the use of Medicare claims data to evaluate provider performance (2004) -- [http://content.healthaffairs.org/cgi/content/full/hlthaff.var.5/DC3](http://content.healthaffairs.org/cgi/content/full/hlthaff.var.5/DC3)
- CBO discussion regarding Medicare preventive services, outlining limitations with Medicare claims data -- [http://www.cbo.gov/doc.cfm?index=3776&type=0](http://www.cbo.gov/doc.cfm?index=3776&type=0)

Long summary:

Sec 10331. Public reporting of performance information.

Website. By January 1, 2011, the Secretary must develop a Physician Compare Website with information on physicians and other professionals participating in the Medicare Physician Quality Reporting Initiative. By January 1, 2013, the website must include performance information, specifically (1) measures collected under the Physician Quality Reporting Initiative; (2) an assessment of patient health outcomes and the functional status of patients; (3) an assessment of the continuity and coordination of care and care transitions, including episodes of care and risk-
adjusted resource use; (4) an assessment of efficiency; (6) an assessment of patient experience and patient, caregiver, and family engagement; (7) an assessment of the safety, effectiveness, and timeliness of care; and (8) other information as determined appropriate by the Secretary. The Secretary is required to consider input from multi-stakeholder groups on measure selection. The Secretary is to ensure patient privacy and include, if practicable, processes to assure statistically valid and reliable data, the opportunity to review data before being made public, accuracy in results, inclusion of data from all patients, attribution in the case of multiple physicians or professionals, and timely feedback.

Value-based purchasing. Permits the Secretary to consider this plan for a transition to value-based purchasing, and to expand the scope of the plan to include other Medicare providers and suppliers after January 1, 2015.

Demonstration program. Allows the Secretary to establish a demonstration program to provide financial incentives to Medicare beneficiaries who are furnished services by high quality physicians. Medicare beneficiaries may not be required to pay increased premiums or cost sharing or be subject to a reduction in Medicare benefits as a result of such demonstration program, and the program may not disadvantage those beneficiaries without reasonable access to high performing physicians or create financial inequities under the Medicare program.

Sec 10332. Availability of Medicare Data for Performance Measurement
Provides CMS with the additional authority to release certain Medicare data to qualified entities for the evaluation of the performance of services and suppliers. Data released to a qualified entity under this subsection shall not be subject to discovery or admission as evidence in judicial or administrative proceedings without consent of the applicable provider of services or supplier.

Qualified entities. A “qualified entity” is a public or private entity that (1) is qualified (as determined by the Secretary) to use Medicare claims data to evaluate the performance of providers of services and suppliers on measures of quality, efficiency, effectiveness, and resource use; (2) agrees to pay a fee equal to the cost of making such data available, (3) submits to the Secretary a description of the methodologies that such qualified entity will use to evaluate the performance of providers of services and suppliers using such data, (4) agrees to use standard measures, except when the Secretary, in consultation with appropriate stakeholders, determines that use of alternative measures would be appropriate, (5) will include other data sources besides the Medicare claims data available under this provision for the performance evaluation, (6) agrees to submit to the Secretary prior to the public release a performance report that will include an understandable description of the measures used, that will be made available confidentially to any identified provider of services or supplier prior to the public release of such report and provide an opportunity to appeal and correct errors, and only include information on a provider of services or supplier in the aggregate form, (7) agree to provide to providers of services and suppliers, upon their request, Medicare claims data provider under this provision, and (8) agrees to only use the data provided under this provision for its stated purpose – evaluation of the performance of services and suppliers.

Summary of the Regulations:
CMS proposes to take an initial step by making public the performance rates of the quality measures that group practices submit under the 2012 Physician Quality Reporting System (PQRS) Group Practice Report Option (GPRO). CMS would make public the measure performance for each of the measures included in the 2012 Physician Quality Reporting System GPRO. A minimum threshold of 25 patients will have to be met in order for the group practice’s measure performance
rate to be reported on the Physician Compare website. For groups reporting using GPRO information that is made public in 2013, CMS does not propose to post information with respect to the measure performance of individual physicians or eligible professionals associated with the group. However, it proposes to identify the individual eligible professionals who were associated with the group during the reporting period. Specifically, CMS will identify the eligible professionals associated with the group by posting a list of the eligible professionals on the Physician Compare website.

Legislative text:

SEC. 10331. PUBLIC REPORTING OF PERFORMANCE INFORMATION.

(a) IN GENERAL.—

(1) DEVELOPMENT.—Not later than January 1, 2011, the Secretary shall develop a Physician Compare Internet website with information on physicians enrolled in the Medicare program under section 1866(j) of the Social Security Act (42 U.S.C. 1395cc(j)) and other eligible professionals who participate in the Physician Quality Reporting Initiative under section 1848 of such Act (42 U.S.C. 1395w–4).

(2) PLAN.—Not later than January 1, 2013, and with respect to reporting periods that begin no earlier than January 1, 2012, the Secretary shall also implement a plan for making publicly available through Physician Compare, consistent with subsection (c), information on physician performance that provides comparable information for the public on quality and patient experience measures with respect to physicians enrolled in the Medicare program under such section 1866(j). To the extent scientifically sound measures that are developed consistent with the requirements of this section are available, such information, to the extent practicable, shall include—

(A) measures collected under the Physician Quality Reporting Initiative;

(B) an assessment of patient health outcomes and the functional status of patients;

(C) an assessment of the continuity and coordination of care and care transitions, including episodes of care and risk-adjusted resource use;

(D) an assessment of efficiency;

(E) an assessment of patient experience and patient, caregiver, and family engagement;

(F) an assessment of the safety, effectiveness, and timeliness of care; and

(G) other information as determined appropriate by the Secretary.

(b) OTHER REQUIRED CONSIDERATIONS.—In developing and implementing the plan described in subsection (a)(2), the Secretary shall, to the extent practicable, include—

(1) processes to assure that data made public, either by the Centers for Medicare & Medicaid Services or by other entities, is statistically valid and reliable, including risk adjustment mechanisms used by the Secretary;

(2) processes by which a physician or other eligible professional whose performance on measures is being publicly reported has a reasonable opportunity, as determined by the Secretary, to review his or her individual results before they are made public;

(3) processes by the Secretary to assure that the implementation of the plan and the data made available on Physician Compare provide a robust and accurate portrayal of a physician’s performance;

(4) data that reflects the care provided to all patients seen by physicians, under both the Medicare program and, to the extent practicable, other payers, to the extent such information would provide a more accurate portrayal of physician performance;

(5) processes to ensure appropriate attribution of care when multiple physicians and other providers are involved in the care of a patient;

(6) processes to ensure timely statistical performance feedback is provided to physicians concerning the data reported under any program subject to public reporting under this section; and

(7) implementation of computer and data systems of the Centers for Medicare & Medicaid Services that support valid, reliable, and accurate public reporting activities authorized under this section.

(c) ENSURING PATIENT PRIVACY.—The Secretary shall ensure that information on physician performance and patient experience is not disclosed under this section in a manner that violates sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually identifiable health information.

(d) FEEDBACK FROM MULTI-STAKEHOLDER GROUPS.—The Secretary shall take into consideration input provided by multi-stakeholder groups, consistent with sections 1890(b)(7) and 1890A of the Social Security Act, as added by section 3014 of this Act, in selecting quality measures for use under this section.

(e) CONSIDERATION OF TRANSITION TO VALUE-BASED PURCHASING.—In developing the plan under this subsection (a)(2), the Secretary shall, as the Secretary determines appropriate, consider the plan to transition to a value-based purchasing program for physicians and other practitioners developed under section 131 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275).

(f) REPORT TO CONGRESS.—Not later than January 1, 2015, the Secretary shall submit to Congress a report on the Physician Compare Internet website developed under subsection (a)(1). Such report shall include information on the efforts of and plans made by the Secretary to collect and publish data on physicians’ quality and efficiency and on patient experience of care in support of value-based purchasing and consumer choice, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(g) EXPANSION.—At any time before the date on which the report is submitted under subsection (f), the Secretary may expand (including expansion to other providers of services and suppliers under title XVIII of the Social Security Act) the information made available on such website.

(h) FINANCIAL INCENTIVES TO ENCOURAGE CONSUMERS TO CHOOSE HIGH QUALITY PROVIDERS.—The Secretary may establish a demonstration program, not later than January 1, 2019, to provide financial incentives to Medicare beneficiaries who are furnished services by high quality physicians, as determined by the Secretary based on factors in subparagraphs (A) through (G) of subsection (a)(2). In no case may Medicare beneficiaries be required to pay increased premiums or cost sharing or be subject to a reduction...
SEC. 10332. AVAILABILITY OF MEDICARE DATA FOR PERFORMANCE MEASUREMENT.

(a) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

"(e) AVAILABILITY OF MEDICARE DATA.—
"(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make available to qualified entities (as defined in paragraph (2)) data described in paragraph (3) for the evaluation of the performance of providers of services and suppliers.
"(2) QUALIFIED ENTITIES.—For purposes of this subsection, the term 'qualified entity' means a public or private entity that—
"(A) is qualified (as determined by the Secretary) to use claims data to evaluate the performance of providers of services and suppliers on measures of quality, efficiency, effectiveness, and resource use; and
"(B) agrees to meet the requirements described in paragraph (4) and meets such other requirements as the Secretary may specify, such as ensuring security of data.
"(3) DATA DESCRIBED.—The data described in this paragraph are standardized extracts (as determined by the Secretary) of claims data under parts A, B, and D for items and services furnished under such parts for one or more specified geographic areas and time periods requested by a qualified entity. The Secretary shall take such actions as the Secretary deems necessary to protect the identity of individuals entitled to or enrolled for benefits under such parts.
"(4) REQUIREMENTS.—
"(A) FEE.—Data described in paragraph (3) shall be made available to a qualified entity under this subsection at a fee equal to the cost of making such data available. Any fee collected pursuant to the preceding sentence shall be deposited into the Federal Supplementary Medical Insurance Trust Fund under section 1941.
"(B) SPECIFICATION OF USES AND METHODOLOGIES.—A qualified entity requesting data under this subsection shall—
"(i) submit to the Secretary a description of the methodologies that such qualified entity will use to evaluate the performance of providers of services and suppliers using such data;
"(ii) except as provided in clause (I), if available, use standard measures, such as measures endorsed by the entity with a contract under section 1890(a) and measures developed pursuant to section 931 of the Public Health Service Act; or
"(III) use alternative measures if the Secretary, in consultation with appropriate stakeholders, determines that use of such alternative measures would be more valid, reliable, responsive to consumer preferences, cost-effective, or relevant to dimensions of quality and resource use not addressed by such standard measures;
"(iii) include data made available under this subsection with claims data from sources other than claims data under this title in the evaluation of performance of providers of services and suppliers;
"(iv) only include information on the evaluation of performance of providers of services and suppliers in reports described in subparagraph (C); and
"(v) make available to providers of services and suppliers, upon their request, data made available under this subsection; and
"(vi) prior to their release, submit to the Secretary the format of reports under subparagraph (C).
"(C) REPORTS.—Any report by a qualified entity evaluating the performance of providers of services and suppliers using data made available under this subsection shall—
"(I) include an understandable description of the measures, which shall include quality measures and the rationale for use of other measures described in subparagraph (B)(ii)(II), risk adjustment methods, physician attribution methods, other applicable methods, data specifications and limitations, and the sponsors, so that consumers, providers of services and suppliers, health plans, researchers, and other stakeholders can assess such reports;
"(ii) be made available confidentially, to any provider of services or supplier to be identified in such report, prior to the public release of such report, and provide an opportunity to appeal and correct errors;
"(iii) only include information on a provider of services or supplier in an aggregate form as determined appropriate by the Secretary; and
"(iv) except as described in clause (ii), be made available to the public.
"(D) APPROVAL AND LIMITATION OF USES.—The Secretary shall not make data described in paragraph (3) available to a qualified entity unless the qualified entity agrees to release the information on the evaluation of performance of providers of services and suppliers. Such entity shall only use such data, and information derived from such evaluation, for the reports under subparagraph (C). Data released to a qualified entity under this subsection shall not be subject to discovery or admission as evidence in judicial or administrative proceedings without consent of the applicable provider of services or supplier;"

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2012.