On November 16, 2017, the Centers for Medicare and Medicaid Services issued the long-awaited proposed rule that would make major changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs. CMS proposes many changes that are intended to increase transparency and alleviate administrative burdens on MA organizations and Part D sponsors. Other changes implement the Comprehensive Addiction and Recovery Act and the 21st Century Cures Act.

Among other changes, the proposed rule would:

- Codify the existing Star Ratings System for the MA and Part D programs with some changes including more clearly delineating the rules for adding, updating, and removing measures and modifying how CMS calculate Star Ratings for contracts that consolidate.
- Reduce the burden of the compliance program training requirements by, among other things, eliminating the mandatory training for first tier, downstream and related entities.
- Create a framework under which Part D plan sponsors may establish a drug management program for beneficiaries at risk for prescription drug abuse or misuse, and limit these beneficiaries’ access to coverage of "frequently abused drugs" to a selected prescriber(s) and/or network pharmacy(ies).
- Clarify the Part D any willing pharmacy requirement to ensure that plan sponsors can continue to develop and maintain preferred networks while fully complying with the AWP requirement and not use standard terms and conditions to avoid compliance.
- Establish “preclusion lists” under Medicare Advantage and Part D and prohibit sponsors from providing coverage for drugs prescribed by or items and services furnished by providers on such lists.
- Allow MAOs and Part D sponsors to include the full amount of expenses for all fraud reduction activities—including fraud prevention, detection, and recovery—as a quality improvement activity (in the numerator) when calculating the medical loss ratio.

Crowell & Moring will be hosting a webinar on the CY2019 Proposed Rule on December 12. Click to register.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

A. Xavier Baker
Partner – Washington, D.C.
Phone: +1 202.624.2842
Email: xbaker@crowell.com