

tailored to each State's status with respect to the accuracy and completeness of its encounter data. The protocol instead discusses how the EQRO should use benchmarks for testing the quality of data. Additionally, the protocol indicates the source for some benchmarks, and in some cases, provides instructions for EQROs to develop certain benchmarks.

Comment: One commenter suggested that the protocol address incorporation of vendor data in reporting to the State.

Response: We agree that vendor data should be included when reporting to the State. That is why we reference the importance of vendor data when assessing the MCO's/PIHP's capability to produce accurate and complete encounter data in Activity 2. Activity 2 directs the EQRO to conduct an IS assessment that is consistent with the process described in Appendix Z. Appendix Z includes as elements that impact the accuracy and completeness of encounter data, the MCO's/PIHP's data submission policies, and the contract requirements for vendors and contractors.

F. Information Systems Capabilities Assessment (Appendix Z)

Comment: One commenter believes the level of detail required in the information systems capabilities assessment (ISCA) tool is excessive. The commenter does not believe that the reviewer should have the option of asking for the source code for a variety of computer and report programs. Moreover, the commenter stated that MCOs do not necessarily have the source code because that information may be proprietary and may be the property of a vendor.

Response: We do not agree that the ISCA tool requires an excessive level of detail. A number of public and private sector protocols and tools were examined to promote consistency between this assessment and similar public and private sector activities. We also disagree with the comment that the reviewer does not need the source codes used to perform various calculations, and because these codes are proprietary the MCO/PIHP would not have access to this documentation. The source codes referred to in the protocol are codes used in the programs written by MCO/PIHP staff or by their contractors to calculate continuous enrollment or other calculations using MCO/PIHP administrative data. Consequently, whenever the accuracy of calculations performed by the MCO/PIHP impact on other aspects of the quality measurement; for example, performance measures, the EQRO will require source

codes to validate the accuracy of those calculations. These source codes should, therefore, be available to the MCO/PIHP.

Comment: One commenter believes the onsite activities under this Appendix probe policies and procedures not subject to regulation and that they are not relevant to the State MCO contract.

Response: We disagree with the premise that the policies and procedures related to the MCO/PIHP ISCA are not subject to regulation. This Appendix relates to three different regulatory provisions. Under § 438.242 of the Medicaid managed care final rule, the State must ensure, through its contracts, that each MCO/PIHP maintains an IS that accurately and completely collects, analyzes, integrates, and reports data on utilization, enrollment and disenrollment. Additionally, § 438.240 stipulates that the State must require MCOs/PIHPs to have an ongoing quality assessment and improvement program for which accurate and complete data is an essential element. Further, in § 438.350 of this final rule, each State is required to provide its EQRO information obtained through methods consistent with these protocols. In our contractor's review of private sector industry and Medicare practices, it was determined that an assessment of an MCO's/PIHP's IS is an essential component of validation of encounter data and performance measurement.

Comment: One commenter believes that this Appendix is outdated and suggested the encounter data protocol should reference current industry available tools.

Response: When we started developing the protocols we used the most recent version of the public and private sector tools referenced. These private and public sector tools have since been updated. However, because we developed the protocols as generic activities and steps to be used in the conduct of the EQR-related activities, we do not agree that the protocols are outdated. Furthermore, in this final rule we allow for use of other protocols, as long as they are consistent (that is, contain the activities and steps identified in these protocols) with those we have developed.

Comment: One commenter believes that States may routinely assess MCO IS capabilities and in these cases this protocol is of limited applicability.

Response: To avoid duplication, in all the protocols calling for an ISCA, we state that the EQRO may use information about the MCO/PIHP ISCA obtained from an ISCA conducted by

another party as part of another review such as the validation of performance measures, validation of encounter data, or a review for compliance with standards. If the ISCA was performed by another party as part of another review, the State or EQRO should obtain a copy of the assessment, review it to determine if the findings are current, consistent with this Appendix, and where appropriate, seek more recent or additional information. If a recent assessment has not been conducted, an ISCA that is consistent with this Appendix should be conducted.

G. Protocols for Administering or Validating Surveys

Comment: One commenter argued that the protocol for administering a survey is very prescriptive and the value of such a detailed protocol is questionable particularly when States choose to follow the recommended CAHPS survey method. The commenter asked us to clarify how much latitude there was to follow the CAHPS methodology.

Response: The administration of validation of consumer or provider surveys of quality of care are optional EQR-related activities. If a State elects to have its EQR perform these activities and to qualify for the 75 percent enhanced match, our protocol or a protocol consistent with ours must be used. Our protocol includes generally accepted practices of survey design and implementation. We relied upon, but condensed, generally accepted principles of survey design and administration discussed in textbooks and other health services publications. Although many States use CAHPS surveys (and the CAHPS survey methodology would meet the requirements of this protocol) it was necessary to put forth this protocol to cover those instances when States desired to use a survey other than a CAHPS survey.

Comment: One commenter asked us to clarify the distinctions between the two survey protocols.

Response: The first protocol applies to the situation in which the State or its agent administers a survey, that is, designs and/or conducts a survey. Administration of a survey may include the design and implementation of a new survey or the modification of an existing survey and its implementation.

The second protocol applies to the situation in which the State or its agent validates the use of a survey administered or conducted by another party. The process of validation is necessary to ensure that the survey results are both reliable and valid. In