

AMERICA'S HOSPITALS AND HEALTH SYSTEMS

August 6, 2015

Ms. Sylvia Mathews Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Notice of Proposed Rule Making (NPRM) on Medicare and Medicaid Programs; Electronic Health Record Incentive Program-Modifications to Meaningful Use in 2015 through 2017 (42 CFR Part 495; [CMS-3311-P]; RIN 0938-AS58)

Dear Secretary Burwell:

As organizations representing hospitals and health systems across the country, we are writing to urge the Department of Health and Human Services (HHS) to release, in the immediate future, a final rule making modifications to the meaningful use requirements under the Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs for fiscal years (FY) 2015 to 2017.

The rule is past due, given that it will affect the current program year for meaningful use. Indeed, under current rules, meaningful use applies to fiscal year performance for hospitals. FY 2015 ends on Sept. 30 – fewer than 60 days from now. We recognize that the Centers for Medicare & Medicaid Services (CMS) also proposed to change meaningful use reporting for hospitals from a fiscal to a calendar year. Under that policy, the last possible reporting period would begin on Oct. 3. However, the proposed rule also allowed other reporting periods for earlier dates in FY 2015. Even if reporting is moved to a calendar year, hospitals need the certainty of a final rule now to determine the best reporting period to choose and begin the process of reviewing performance and ensuring they have met all of the revised requirements.

Our collective memberships greatly appreciate the flexibilities included in the proposed rule, such as a 90-day reporting period for FY 2015 and modifications to the requirements for objectives of meaningful use that were exceedingly difficult to meet given current technology and infrastructure for exchange. These include the proposed changes to the summary of care, patient electronic access and secure messaging objectives. We urge CMS to finalize those changes as proposed.

Other proposed changes, such as making e-prescribing of discharge medications mandatory or adding new public health reporting measures, however, would make meeting Stage 2 more difficult. And, given the delay in the release of a final rule, they would be virtually impossible for hospitals to accommodate. Hospitals simply will not have sufficient time to understand the new requirements, work with their vendors to purchase and implement new or revised

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technology that would accommodate them, and invest in the training and work flow changes necessary to meet the new requirements.

Failure to release a final rule in the immediate future would create significant hardships for hospitals and physicians. While both hospitals and physicians will be challenged to meet the requirements, hospitals have the additional burden that under current rules, they must attest to a FY 2015 performance period of Oct. 1, 2014 to Sept. 30, 2015, and report on requirements that are not possible to meet given existing technology and infrastructure. Widespread failure to meet meaningful use due to unrealistic regulatory requirements and insufficient technology will undermine hospitals' ability to use EHRs to improve care and involve patients in their care. It will also result in significant financial penalties for the hospital field. Therefore, we urge HHS to release a final rule as quickly as possible.

Our commitment to the successful use of EHRs remains strong. Health information technology is a key underpinning of new models of care and greater patient engagement in care. We look forward to continuing to work with HHS to ensure the success of the meaningful use program.

Sincerely,

America's Essential Hospitals
American Hospital Association
Association of American Medical Colleges
Catholic Health Association of the United States
Children's Hospital Association
Federation of American Hospitals
Premier healthcare alliance
VHA Inc.

Cc: Andrew M. Slavitt, Acting Administrator, Centers for Medicare & Medicaid Services