



December 15, 2015

**VIA ELECTRONIC SUBMISSION**

Andy Slavitt  
Acting Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

**RE: CMS-3310 & 3311-FC: "Medicare and Medicaid Programs; Electronic Health Record Incentive Program – Stage 3 and Modifications to Meaningful Use in 2015 Through 2017"**

Dear Administrator Slavitt,

On behalf the physician members of the undersigned State Medical Associations, we thank you for the opportunity to comment on the October 16, 2015 Final Rule on Stage 3 and Modifications to Meaningful Use in 2015 through 2017. We are disappointed and frustrated with the push to move forward with Stage 3 and the resistance to adopting bolder reforms to Stage 2. These rules will only serve to penalize physicians who participate in Medicare and hinder progress on the adoption of EHRs and the exchange of information.

While the federal Electronic Health Record Incentive (EHR) Program has been successful in that it incentivized nearly 80% of physicians to adopt EHRs, the program has been unsuccessful as eligible professionals transitioned to Meaningful Use Stage 2. Only 12% of eligible physicians met the Meaningful Use Stage 2 requirements in 2014. This demonstrates that there is something wrong with the program, not physicians. The constantly changing requirements, high costs of EHR implementation and upgrades, inconsistencies on how EHRs report data, and lack of interoperability combined with the onerous Meaningful Use Stage 2 requirements have made it extremely difficult for physicians to continue to participate in the EHR Incentive Program. Many physicians have reported that they have expended large amounts of financial and staff resources into implementing EHRs and meeting Meaningful Use only to fail to meet the Stage 2 requirements. Such issues are hindering progress and physician use of EHRs.

Despite the widespread problems faced by physicians in meeting Meaningful Use Stage 2, the final rule moves forward with Stage 3 and calls for full-year reporting and requirements that do not effectively ease the administrative burden raised by physicians. The final rule will continue to ensure that physicians fail and are penalized by CMS for participating in Medicare. Without meaningful changes to the program requirements, the new Meaningful Use requirements will drive physicians out of Medicare and exacerbate the access to care problems in our states.

Earlier this year, we submitted detailed comments to CMS on both the MU Stage1 & 2 Modifications and Stage 3 programs. While CMS made some improvements to MU Stage 2, overall, we do not see that the concerns raised by physicians are being addressed in the final rule. Physicians across this country are uniformly frustrated, angry, and demoralized by these difficult regulations. Most physicians are working hard to meet the requirements and cannot because of the lack of specialty measures, the all-or-nothing approach, vendor problems, the lack of interoperability or other issues beyond their control. Many physicians have been early adopters of technology and are enthusiastic about using EHR as means to improve workflow, patient care and quality outcomes. However, the EHR incentive program must have feasible and attainable requirements to help physicians achieve these goals rather than act as a burden and hindrance to EHR use by physicians.

**Therefore, we urge CMS to immediately adopt the following:**

**1. Delay Meaningful Use Stage 3**

It does not make sense to move to Stage 3 when the vast majority of physicians are not meeting Stage 2. Moreover, we do not yet have the appropriate infrastructure for the exchange of health information required by Stage 3. And finally, the move would be premature when CMS has not yet adopted regulations to implement the new Merit-Based Incentive Program (MIPS) under the new Medicare payment reform law (MACRA) that Congress passed earlier this year.

**2. Implement Reforms for Meaningful Use Stage 2**

- a. Eliminate the all-or-nothing approach and give physicians proportional credit for the measures that are successfully completed. We also need an approach that recognizes differences in specialties and patient populations.
- b. Expand the hardship exemptions to recognize physicians who are victims of hacking or other disruptive technology problems related to their vendors, including switching EHR products. The exemptions should also include certain physicians who are close to retirement. It will be important to keep these physicians in the Medicare program to maintain access to care. And finally, the exemptions should be tailored for specialties that do not directly interact with patients.
- c. Focus on Interoperability. CMS needs to ensure that EHR systems are interoperable – capable of sending, receiving and incorporating data through repeated testing and evaluation by end-users. CMS should prioritize implementation of an infrastructure to exchange health care information and ensure that certified EHR technology is capable of meeting the Meaningful Use requirements.

We thank you for your attention to these urgent issues and we appreciate the opportunity to provide additional comments on the final rule. We look forward to working constructively with CMS to truly advance the adoption of Electronic Health Records in a way that promotes quality health care.

Sincerely,

**California Medical Association**

**Florida Medical Association**

**Medical Society of the State of New York**

**Texas Medical Association**

cc: California, Florida, New York and Texas Congressional Delegations