

AMERICAN ASSOCIATION OF
NEUROLOGICAL SURGEONS

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June 15, 2015

Andy Slavitt, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201
Attention: CMS-3311-P

Subject: EHR Incentive Program-Modifications to Meaningful Use in 2015 Through 2017

Dear Administrator Slavitt,

On behalf of the American Association of Neurological Surgeons (AANS) and the Congress of Neurological Surgeons (CNS), we appreciate the opportunity to comment on proposed changes to the Medicare and Medicaid Electronic Health Records (EHR) Incentive Program for 2015-2017.

As we stated in our Stage 3 comments, organized neurosurgery supports the goal of a national health information infrastructure and recognizes the potential value of EHRs to improve the quality of patient care. However, we remain concerned about existing barriers that make it a challenge for physicians to achieve widespread EHR adoption. These include the high cost of EHR adoption; lack of EHR functionality that cater to specialists' needs; a meaningful use program that continues to rely on a one-size-fits-all approach to measurement and fails to recognize the diversity of medicine and patient populations; and ongoing interoperability challenges.

Below we offer more specific comments on the proposed changes in this rule.

Moving Towards a Uniform Set of Requirements

CMS proposes to require all providers to attest to a single set of objectives and measures finalized in the Stage 2 final rule beginning with the 2015 reporting period. While CMS proposes exclusions and other accommodations for physicians previously scheduled to comply with Stage 1 in 2015, *all* physicians — including those brand new to the program and those with experience — would be required to comply with a modified version of Stage 2 in 2016 with no accommodations for first year participants.

While the AANS and CNS appreciate CMS' intent to streamline the EHR Incentive Program, we disagree with this strategy of moving towards a uniform set of reporting requirements since it fails to recognize the varying circumstances of physicians. Physicians, their practices, their patient populations, and their EHR experience and needs are not homogenous. Unfortunately, rather than recognizing this diversity and offering physicians more flexibility, CMS' proposal relies even more heavily on a one-size-fits-all approach to measurement, which will only make participation in the program less meaningful for physicians — particularly specialists.

We strongly recommend that CMS preserve the staged approach to meaningful use to recognize the wide range of experience with EHR adoption among physicians. Since the program's inception, first-

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year participants were held to a lower bar than those with more experience to reflect the large upfront investment of time and resources and technical challenges associated with EHR adoption. It is important that CMS maintain the staged approach to meaningful use rather than holding all physicians accountable to a modified version of Stage 2 requirements by 2016 and to Stage 3 requirements by 2018. This more gradual approach would not only account for a physician's level of experience with meaningful use of an EHR, but would give physicians the opportunity to work towards more advanced uses of EHR technology via an iterative learning process.

We also request that CMS offer more flexible reporting options through a wider assortment of menu objectives versus a smaller and more limited set of required objectives during each stage. This would give specialists the opportunity to choose measures that most appropriately reflect their practice, would result in more meaningful participation, and would ultimately encourage more widespread adoption of EHRs in a manner that truly impacts quality.

Elimination of the 90-Day Reporting Period

Organized neurosurgery also reiterates its concerns about CMS' proposal to eliminate the 90-day EHR reporting period in 2017, especially since that is the year in which CMS proposes that all physicians begin reporting on Stage 2 with no accommodations for first year participants. All new participants to the program have traditionally been given the option to report for a 90-day period to allow them to get acclimated to the program, and this policy should be extended into the future. Elimination of the initial 90-day reporting period would create a significant barrier for new participants and likely discourage participation or unfairly penalize individuals facing legitimate barriers. We urge CMS to use its authority to continue the 90-day reporting period into the future for new participants.

All-or-Nothing Approach to Successful Participation

Although not addressed directly in the rule, organized neurosurgery continues to have concerns about the program's ongoing all-or-nothing approach under which even providers who have fully committed to meaningful use are penalized and unrecognized for their investment if they fail any single objective (even by missing one measure threshold by a single percent). This is a major disincentive to physicians, especially specialists who already have major concerns about the relevance of the program's measures. Physicians who make a good faith effort to meaningfully use EHRs should not incur the same penalty as a physician who chooses not to participate in the program.

Burden Estimates

CMS claims that the proposals in this rule would result in a reduction of reporting burden to physicians as compared to the existing program requirements finalized in the Stage 2 final rule. CMS is factually correct in estimating that it will take approximately one minute to attest to a binary choice. However, the underlying process of gathering, verifying, and otherwise analyzing data to confidently attest to meeting the measure is not captured in one minute. We also believe that the estimate that it will take approximately 10 minutes for measures that require calculations and determinations of nominators and denominators is wildly optimistic and not achievable. We request that CMS more carefully consider the multiple factors that contribute to the burden of physician reporting the impact this has on the physician's practice and on healthcare delivery, in general.

Public Health and Clinical Data Registry Reporting

For 2015 and beyond, CMS' proposes to consolidate the public health reporting measures into one new objective that recognizes multiple forms of data reporting, including reporting to a clinical data registry (CDR). The AANS and CNS greatly appreciate this flexibility and CMS' enhanced recognition of the value of CDRs. We also appreciate CMS' proposal to replace the current "ongoing data submission"

requirement with the more broadly defined requirement that an EP demonstrate “active engagement” with a CDR. However, we do not believe that CMS’ proposed definition of “active engagement” is sufficient since, under one scenario, it would require that an EP complete its registration with a CDR within 60 days after the start of the EHR reporting period. This timeframe is unrealistic given the fact that connecting to a third party, such as a registry, requires a physician practice to enter into a legally binding contractual relationship that may take more than 60 days. There are also various factors a physician may have to consider, outside of routine practice, such as complying with human research subject protections; researching the availability of PHA and CDR in their specialty area; EHR vendor’s willingness to connect to their desired third parties; the cost the vendor may charge the physician; and the cost to participate in a CDR. Consequently, registration may not be completed within 60 days after the start of the reporting period, despite the good faith effort of the physician.

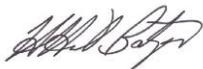
Alternatively, we recommend that the definition of “active engagement, option 1” be modified to reflect that, “contact was initiated by the physician to the CDR via email or written notice within the EHR reporting period.” We also urge CMS to lower the threshold of this objective so that providers are only required to satisfy one of the five proposed measures, rather than two. One registry is often all that is available and relevant to some specialists who do not treat conditions that would warrant communication with a public health registry on a regular basis.

Concluding Remarks

In conclusion, the AANS and CNS support the intent of the EHR Incentive Program and the flexibility proposed for EPs scheduled to comply with Stage 1 in 2015. However, we believe these accommodations should be maintained into the future, at least for first-year participants. While we also appreciate efforts to streamline reporting requirements and minimize regulatory burden, we remind CMS of the critical need to offer physicians *more reporting choices*, rather than less, so that each physician is given the opportunity to determine the most appropriate manner in which to demonstrate meaningful use for their specific practice. We urge CMS to continue to work closely with the specialty provider community to develop meaningful use criteria that facilitate the use of HIT to achieve improvements to specialty patient care. Simultaneously, we urge CMS to work closely with the ONC to ensure that EHR vendors address significant shortcomings in currently available products for specialists and the patients that we serve.

Thank you for the opportunity to comment on this proposed regulation. Organized neurosurgery looks forward to working with CMS to make improvements to the EHR Incentive Program over time and to work toward the overall goal of a nationwide interoperable HIT infrastructure that improves patient quality. In the meantime, if you have any questions or need further information, please feel free to contact us.

Sincerely,



H. Hunt Batjer, MD, President
American Association of Neurological Surgeons



Nathan R. Selden, MD, PhD, President
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