



**American College of Physicians Statement to the Senate Finance Committee
Hacking America's Health Care: Assessing the Change Healthcare Cyber Attack
and What's Next**

May 1, 2024

On behalf of the American College of Physicians (ACP), I am writing to share our views regarding the recent Senate Finance Committee Hearing on Hacking America's Health Care: Assessing the Change Healthcare Cyber Attack and What's Next. We appreciate your willingness to investigate why Change Healthcare services and patients' sensitive health information were susceptible to a cyberattack, as well as their and UnitedHealth's failure to support physicians who experienced significant financial loss after this incident. We urge Change Healthcare and UnitedHealth to share any information concerning patient data that was compromised or stolen and how their protected health information and personally identifiable information were compromised during this attack. We look forward to collaborating with this Committee to safeguard patient digital health records and ensure that physicians are properly compensated for any financial losses they experienced as a result of and in the aftermath of this cyberattack.

ACP is the largest medical specialty organization and the second largest physician membership society in the United States. ACP members include 161,000 internal medicine physicians, related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge, clinical expertise, and compassion to the preventive, diagnostic, and therapeutic care of adults across the spectrum from health to complex illness.

We are alarmed that although UnitedHealth completed its acquisition of Change Healthcare in October of 2022, it failed to ensure that digital records of patients were secure after this merger. In February of this year, hackers stole patient data in one of the largest cyber-attacks in our nation's history. As a result of this attack, physicians have not received payment for services and are without the revenue they are accustomed to, rely on, and that which is necessary to continue providing care. Steps have been taken to advance payments to physicians, but cashflow disruptions are still occurring, and physicians are being forced to reduce hours, cut staff, and hold off on purchasing necessary supplies. The reported delays and disruptions to patient care over the past three months are unacceptable.

Ensure Change Healthcare Provides Financial Support for Physicians

In March, ACP wrote a [letter](#) to HHS highlighting the significant financial strain this cyberattack has imposed on physicians who rely on Change Healthcare's claims and billing systems, the largest in the U.S. health care system. Unfortunately, physicians, especially those in smaller practices that serve rural and underserved communities, have continued to have cashflow issues that severely threaten patient access to care and practice viability. In May, ACP wrote another [letter](#) to HHS expressing continued concerns and urging the need for additional action to support physicians and protect patient access to care. ACP also [wrote](#) to the National Governors Association, calling for state-based actions and coordination with federal agencies.

UnitedHealth and Change Healthcare have not done enough to support and resource physicians over the past two months. Instead, many physicians have been without the necessary capital to provide care since the cyberattack, and most practices are unaware of the steps that HHS and others have taken to establish workarounds. A [recent survey](#) from the American Medical Association found that in the aftermath of this cyberattack, 55 percent of practices have had to use personal funds to cover expenses, and about one-quarter of practices have received financial assistance from UnitedHealth.

The College is therefore strongly urging the Finance Committee and HHS to take further action to work with UnitedHealth, Change Healthcare, and other necessary actors to ensure that any physicians who experienced financial loss because of this attack are compensated in a timely manner. ACP is deeply concerned that absent these actions from the Finance Committee, UnitedHealth and Change Healthcare, and HHS, physician practices will be forced to drastically scale back patient panels, restrict the type of care provided, explore alternative financing options, or close their practice altogether.

Remove Penalties in MIPS for Impacted Physicians

We are pleased that CMS extended the data submission deadline and reopened the 2023 Merit-based Incentive Payment System (MIPS) Extreme and Uncontrollable Circumstances (EUC) Exception Application to provide relief to eligible physicians and other clinicians impacted by the Change Healthcare cybersecurity incident. Extending these deadlines into April was essential for eligible physicians, and **we strongly urge the Finance Committee and HHS to ensure that impacted physicians in MIPS are not unfairly penalized throughout this entire performance year, as any penalization further threatens the viability of physician practices.** Even though Change Healthcare's systems are gradually returning to operational status, system outages have persisted, and some systems still are not fully restored. Physicians will feel the effects of this for many months to come, and the Finance Committee must ensure physician practices are not detrimentally impacted and protect against events of this scale in the future.

Allow Paper Claims and Extended Grace Period in Aftermath of Attack

We also recommend that HHS take steps to allow and encourage paper claims for an extended grace period following the complete restoration of Change Healthcare's systems. Currently, practices are backlogged on administrative tasks and claims submissions and are also facing the choice of reconnecting to the Change Healthcare systems or choosing a new clearinghouse. There is a learning curve for physicians when adopting these new clearinghouses, and physicians should not be forced to choose between providing care and completing administrative tasks disrupted by this incident. Allowing paper claim submission during this transition period and for months after would allow physicians to place their primary focus on clinical practice. ACP recommends extending this grace period to 90 days after completely restoring all of Change Healthcare's systems.

Ensure Medicaid and Medicare Provide Flexibility for Physicians

ACP further recommends that the Finance Committee and HHS ensure that state Medicaid plans provide flexibility and allocate funds to minimize the stress placed on physicians. HHS' encouragement of these state-based actions is critical to reaching the most marginalized patients and the physicians who care for them. HHS should also encourage UnitedHealth to adjust its allocation period to 60 days instead of the current 45 days. This allows physicians a longer period to provide care, perform necessary administrative tasks, and determine if additional allocations are needed. The repayment timeframes are also problematic as most physicians will not have adequate cash flow to return payments within 45 days after standard operations resume. Health plans should be aware of these cash flow disruptions, and their flexibility during this time is essential to getting physicians back on schedule. **Additionally, ACP recommends supplemental advanced payments to physicians through traditional Medicare and private payers.** The current payments primarily address providing direct patient care, but practices routinely incur costs for clinical staff, resources, and other expenses. The lack of these actions and delays in reimbursement will lead to a significant decrease in the number of physicians able to provide care, elimination of staff, and use of personal funds to keep practices operational.

Investigate Predatory Practices used by UnitedHealth

In addition to the continued concerns about cashflow disruptions and access to care, ACP is incredibly disturbed by reports that UnitedHealth has used this recent cyberattack to take advantage of practices that are struggling financially by buying them out and expediting mergers with UnitedHealth. Due to the attack against its systems, practices have been financially distressed. ACP believes it is a predatory practice for UnitedHealth to acquire practices vulnerable to its own cyberattack. **We urge the Finance Committee and HHS to investigate these predatory practices** and take any corrective or adverse action where appropriate. HHS should also leverage its partnerships with states as additional agencies begin to examine UnitedHealth's behavior.

Improve the Security of the Health Care Infrastructure

As HHS continues to work with physician partners, Change Healthcare, and UnitedHealth to address these issues, **ACP strongly encourages special attention to be paid to the ongoing and rising cybersecurity and privacy risks within the health care infrastructure.** We encourage the Finance Committee to consider legislation to ensure that HHS and federal agencies responsible for protecting and securing health data must guarantee that these delays, barriers, and breaches are not repeated in future cyberattacks. These gaps must be addressed in future rulemaking, and appropriate penalties must be assessed due to any adverse findings via investigation.

Conclusion

We thank the Senate Finance Committee for holding this hearing and their ongoing efforts to hold Change Healthcare and UnitedHealth accountable for their actions in the aftermath of this attack. The College will continue to give feedback to the Finance Committee and HHS and inform our members' perspectives during this challenging time. We ask that you keep us posted on your ongoing investigation and any new information that may be helpful to our physicians. Please do not hesitate to contact Brian Buckley, our Senior Associate for Legislative Affairs at bbuckley@acponline.org if you have any questions regarding this statement.