

October 27, 2020

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

Dear Administrator Verma:

On behalf of the undersigned organizations, we are writing to express our deep concern regarding the upcoming compliance deadlines included in the “Patient Access” Rule, as well as to urge the Centers for Medicare and Medicaid Services’ (CMS) to provide additional regulatory relief to physicians during the national threat of the Coronavirus Disease 2019 (COVID-19). The signatories include the American College of Physicians, which is the largest medical specialty organization and the second largest physician membership society in the United States, as well as the nation’s leading Subspecialty Societies. While we have demonstrated our steadfast and continual commitment to CMS’ efforts to improve patient access to data and interoperability, it is an insurmountable burden to ask physicians during this public health emergency (PHE) to dedicate scarce resources to compliance measures and consequently put patient lives at risk. **We strongly urge CMS to support physicians and their care teams during this PHE by delaying compliance with implementation timelines and simultaneously offering hardship exceptions for the upcoming regulatory deadlines in the “Patient Access” final regulations.**

Effective interoperability is crucial to improving the patient experience, reducing burden on physicians, and in turn, improving the quality of care throughout the health care system. We recognize that through the adoption of standards-based Application Programming Interfaces (APIs) and facilitation of the continuity of patient health information, in addition to the other provisions set forth in the final rule, CMS has taken a significant step in empowering patients to take control and access their personal health information in a manner that better facilitates the coordination of care throughout the health care continuum. However, with the unfortunate reality that this COVID-19 crisis has presented, it is perhaps more important now than ever that we are on the same page and build a health system that supports the successful introduction of information blocking provisions. The fact remains that existing health IT systems are not where they need to be in order to address the needs of the rule immediately. Given that the existing health IT systems are not yet ready to take on this task, we must not rush the implementation of these regulations. We ask that CMS help support physicians and the health care system by delaying these provisions and allowing for such a successful transition at the most appropriate time.

The importance of our nation’s health system and patient care is the very reason why the undersigned groups ask CMS to delay implementation timelines. On September 17, 2020, the U.S. Department of Health and Human Services (HHS) sent the Office of Management and

Budget (OMB) an interim final rule (IFR), called Information Blocking and the ONC Health IT Certification Program: Extension of Compliance Dates and Timeframes in Response to the COVID-19 Public Health Emergency. This IFR implies that HHS will seek to extend dates identified in the information blocking provisions, which includes the November 2, 2020 compliance deadline for physicians, as well as the dates for certification provisions that require electronic health record (EHR) platforms to be interoperable. Though we await OMB's uptake of the IRF, this is indicative of the steps that must be taken in light of the enduring circumstances. To require physicians, most of which who are experiencing extreme financial hardship, to dedicate crucial, limited resources away from the fight against COVID-19 to compliance measures is an extreme injustice to both physicians and patients. With accompanying delayed implementation from CMS, physicians will be better able to focus their attention on treating and serving patients – and protecting themselves and staff from infection.

Though we understand that CMS is closely monitoring the situation in terms of further adjustments, the unfortunate truth is that this is a new reality, at least for the foreseeable future, and action must be taken now to prepare for the successful transition to rule implementation in the future while also providing for a sustainable situation now. Many of our members are struggling to keep their practices afloat<sup>i</sup>, and at this time, rearranging resources to address these compliance measures is not a task most physicians can tackle or reasonably support. Pushing back the deadlines included in the "Patient Access" final regulation will free up time and resources for pandemic preparedness and response. We greatly appreciate CMS' previous clarifications and delaying of certain provisions, but sadly, practices will not recover from COVID-19 overnight, nor before the finalized deadlines. In fact, the effects of this crisis will be long-lasting, and CMS must remain cognizant of this fact and should extend important flexibilities and deadlines.

We hope that CMS will take into account the devastating impact that COVID-19 has had on our country, our physicians, and patients alike. Meeting the policy goals in the "Patient Access" rule is undoubtedly a priority goal of ours, but with the nation in the midst of dealing with a global pandemic of which we have not seen the likes in over a century, we must dedicate time and energy to curtailing this disease. Only then may we push to actualize the importance and need for enhanced health information exchange and patient access to health data. We hope that you take into consideration our request; please contact Dejah Johnson, Analyst for Health IT Policy and Regulatory Affairs, at [djohnson@acponline.org](mailto:djohnson@acponline.org) if you have any questions or need additional information.

Sincerely,

American Academy of Allergy, Asthma & Immunology (AAAAI)

American Academy of Neurology (AAN)

American Association of Clinical Endocrinology (AACE)

American College of Gastroenterology (ACG)

American College of Physicians (ACP)

American College of Rheumatology (ACR)

American Society for Gastrointestinal Endoscopy (ASGE)

American Society of Hematology (ASH)

American Society of Nephrology (ASN)

Association for Clinical Oncology (ASCO)

Endocrine Society

Renal Physicians Association (RPA)

Society of General Internal Medicine (SGIM)

Society of Hospital Medicine (SHM)

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<sup>i</sup> See the Larry A. Green Center, “*Quick COVID-19 Primary Care Survey*”, Series 21, available at <https://static1.squarespace.com/static/5d7ff8184cf0e01e4566cb02/t/5f75da37bde1f0691fc28b0d/1601559097041/C19+Series+21+National+Executive+Summary.pdf> where 54% of physicians have experienced “pandemic-related furloughs and layoffs” and 28% have “permanently reduced the size of their staff because of COVID-19.” See also the Larry A. Green Center, “*Quick COVID-19 Primary Care Survey*”, Series 20, available at <https://static1.squarespace.com/static/5d7ff8184cf0e01e4566cb02/t/5f6510dc99d76d706832ba29/1600458973290/C19+Series+20+National+Executive+Summary.pdf> where “1 in 3 clinicians report fee-for-service volume is 30-50% below pre-pandemic levels and likely to be for a while.”