



John Tooker, MD, MBA, MACP
Executive Vice President and
Chief Executive Officer

Phone: 215-351-2800, Fax: 215-351-2829
Email: jtooker@acponline.org

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Donald Berwick, MD, MPP
Administrator
Centers for Medicare & Medicare Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-8013

David Blumenthal, MD, MPP
National Coordinator for Health Information Technology
Department of Health and Human Services
Hubert H. Humphrey Building, Suite 729D
200 Independence Ave, S.W.
Washington, DC 20201

Dear Drs. Berwick and Blumenthal:

The American College of Physicians (ACP), representing 130,000 internal medicine physicians and medical student members, congratulates the Centers for Medicare & Medicaid Services (CMS) and the Office of the National Coordinator for Health Information Technology (ONC) on the finalization of the rules for the Electronic Health Record Incentive Program and the Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology. The College recognizes and appreciates the extensive work that is required in finalizing such complex and important rules. Further, we compliment CMS and ONC for the ongoing outreach to the physician community and hope that these efforts continue since the work of improving health care through the appropriate implementation of health information technology is just beginning.

ACP is supportive of the changes made in the final rules. The modifications reflect well on the transparent process and responsiveness of both CMS and ONC to comments and suggestions from the physician community. In particular, ACP is pleased that the majority of the key issues raised in our comments of March 10th have been addressed. Specifically:

- ACP suggested that the predominant goal for 2011 should be to capture information in a structured format.
 - The final rule makes such a goal an explicit feature of the Stage 1 criteria.
- We expressed concerns about the number of measures.
 - The number of measures was reduced and flexibility added through the Menu Objectives/Measures.
- The College was concerned about the pass/fail, composite measure approach to meaningful use.
 - ACP believes that the Core Objectives/Measures are generally reasonable and that the flexibility of the Menu Objectives/Measures will provide physicians and their practices options for meeting the meaningful use recognition.
- ACP asked that denominators be removed unless automatically calculated by EHRs.
 - While percentages are still required, the functionality to generate these percentages is explicitly part of the process of certifying EHR technology. The challenge will be that this functionality will not be available to EPs until sometime after certification of EHRs, which has yet to begin.
- ACP noted that some terms were not adequately defined.
 - For the most part, the final rules are specific enough to move forward. Clarifications may be necessary as implementation proceeds.
- The College expressed concern about the implied timing and frequency of certain measures.
 - The current approach seems to have eliminated these concerns.

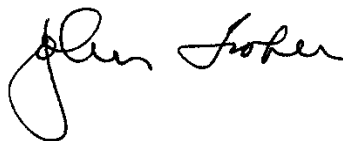
- ACP questioned the relevance of some measures with respect to meaningful use.
 - The flexibility and exclusion criteria are responsive to these points.
- The College raised concerns about untested data collection and reporting requirements in the proposed rule.
 - The final rule focuses on clinical measures already specified for electronic submission to CMS. Therefore, ACP has more confidence in the ability of physicians and EHRs to generate the meet the data collection and reporting requirements.
- ACP raised concerns that measures in the proposed rule would have required inappropriate changes in how health care is provided by health care professionals by over-specifying how a measure can be satisfied.
 - We are pleased that the final rules have added flexibility to overcome our initial concerns.
- The College suggested that measures unrelated to meaningful use be removed.
 - The administrative measures we objected to have been eliminated for Stage 1 (insurance eligibility and submission of claims electronically).
- ACP raised concerns about the burden for small practices.
 - Given the flexibility, the reduction of measures, and the alignment of EHR certification requirements to match the meaningful use requirements, the final rule requirements are much more likely to be achieved by our constituency than the previous NPRM.

Overall, ACP is pleased with the responses to these core issues regarding meaningful use and we are supportive of the direction in which the rules move the health IT community. However, the College does have some remaining concerns, which we look forward to reviewing with CMS and ONC. In particular:

- Physicians will be looking for certified EHR technology, but the process for certification has not yet begun. The College hopes that the certification entities will rapidly develop and begin the process of identifying the health IT solutions for physicians to purchase and that the vendor community produces viable options for physicians to upgrade CCHIT certified systems already in place.
- ACP remains concerned that physicians will be enticed to purchase Complete EHRs and EHR Modules that are certified based on the described process but which will not provide adequate support for the entire range of health IT-enabled services upon which physician offices will need to rely.
- ACP remains cautious about the speed at which the Core and Menu measures can be integrated by EHR vendors into their systems. Many EHRs will need to be retooled to use structured data from the clinical components of EHRs rather than utilizing claims data, requiring abstraction, or relying upon attestation.
- The flexibility permitted in the ONC rule on standards is understandable and reflects recognition of the state of affairs in practice today. However, the College is concerned that differing standards and versions adopted by certified EHR technology could result in inaccurate data exchange and difficulty achieving the level of interoperability desired.

In sum, the ACP is thankful for the considerable efforts by CMS and ONC to listen and respond to the stakeholder community. The results are encouraging and lead us to believe that the remaining issues for which we have concerns can be addressed through continued dialogue, clarification, and collaboration on future rule-making.

Sincerely,



John Tooker, MD, MBA, MACP
Executive Vice President and CEO