

Congress of the United States
Washington, DC 20515

September 19, 2014

Marilyn Tavenner, MHA, RN
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health & Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Final Rule: Medicare and Medicaid Programs: Modifications to the Medicare and Medicaid Electronic Health Record Incentive Programs for 2014; and Health Information Technology: Revisions to the Certified EHR Technology Definition

Dear Administrator Tavenner:

We are writing in regards to recent reports that Centers for Medicare and Medicaid Services (CMS) is unable to accept Meaningful Use attestations for 2014. Upon trying to attest to meaningful use on CMS' Registration and Attestation website, providers are being informed that the website - designed to accept attestations for meaningful use - is inoperable and will not be functional until mid-October.

Since some of these providers are in their first year of Electronic Health Record (EHR) attestation, they are required to attest no later than October 1, 2014 in order to avoid a 1 percent reduction in provider Medicare and Medicaid reimbursements in 2015. These providers cannot attest by October 1 if CMS systems will not be ready until mid-October. They have been told that CMS is aware of this problem for those in their first year of attestation, but are unable to assist.

We are concerned that these providers will receive fines, even though they are acting in good faith to meet CMS deadlines. Providers nationwide who have invested hundreds of thousands of dollars toward electronic health record software and hardware to comply with CMS's EHR program will now face the additional and unexpected burden of unreasonable cuts to their reimbursements – simply because of a delay in CMS system updates.

According to the most recent CMS data, only 9 percent of our nation's hospitals and 1 percent of eligible healthcare professionals have demonstrated the ability to meet Meaningful Use Stage 2 requirements using the 2014 Edition Certified Electronic Health Record Technology. This represents an alarming fraction of the hospitals required to be Stage 2-ready within the next 15 days, before October 1, 2014.

To ensure that the \$24 billion in taxpayer dollars already invested in the Meaningful Use Program does not go to waste, we have introduced the "The Flexibility in Health IT Reporting (Flex-IT) Act of 2014" (H.R. 5481). The Flex-IT Act would ensure providers receive the flexibility they need to successfully attest to the Meaningful Use Program in 2015 by maintaining a 90-day reporting period.

We hope this oversight can be quickly and effectively addressed by CMS. As such, we request an administrative delay in the October 1, 2014, deadline for those attempting to attest for the first time in 2014. Furthermore, we urge you to take immediate action by shortening the 2015 EHR reporting period to 90 days. In light of the respite your agency granted itself, it is only fair to afford the nation's healthcare providers with equal flexibility to meet the Meaningful Use Stage 2 requirements.

HHS must lead by example and recognize that additional time is vitally important to ensure that hospitals and physicians continue moving forward with technology to improve patient care as incentivized in the Meaningful Use Program. Given that we have less than two weeks left in Fiscal Year 2014, immediate attention to these concerns is urgently needed.

Sincerely,



Renee Elmers
Member of Congress



Jim Matheson
Member of Congress