



AMERICAN ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR AMERICA

April 6, 2015

Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave., SW
Washington, DC 20201

Dear Administrator Slavitt,

On behalf of the American Academy of Family Physicians (AAFP), which represents 115,900 family physicians and medical students across the country, I write to express our increasing concerns with Meaningful Use audits.

Many family physicians have implemented and use electronic health records (EHRs) in the full spirit of the Meaningful Use program. They therefore have a reasonable expectation that the Meaningful Use financial subsidy would help offset the implementation costs and associated initial decrease in practice productivity. However, auditors are causing undue hardship for family physicians with unreasonable and burdensome documentation requests as further outlined later in this letter. If the government believes that a strong primary care foundation is the key to an improved and sustainable healthcare system, then we urge you to take these issues into account and provide immediate and increased relief to those who have acted responsibly and legally and had no intent to defraud or deceive by participating in the Meaningful Use program.

When auditors demand that family physician practices produce documentation years after the fact, we find that to be unreasonable, an administrative burden, and certainly not timely. This is especially burdensome for family physicians who have made changes to their practice or have been acquired by a larger healthcare organization. Another concern stems from employed physician situations, since many employment contracts include a clause stating all Medicare payments are turned over to the practice. This creates an issue when the practice received the Meaningful Use subsidy, but years later, the individual physician is held responsible for repaying the payment after a failed audit.

We also question the effectiveness, responsiveness, and expertise of auditors. Family physician practices report multiple, back and forth communications with auditors which take time away from patient care. Medical practices report waiting weeks for responses and auditors require physicians to send multiple follow-up communications before resolving an audit. Quite troubling, auditors do not appear to have a health care background or expertise in EHRs which makes the communication process challenging.

The AAFP has become alarmed with the lack of clarity around Meaningful Use documentation requirements. The use of software by a certified vendor does not always correspond to the auditing program's

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requirements. Vendors largely were unaware of what physicians were going to be asked to document and prove when the vendor developed the EHR.

Regarding the audit program, we believe the existing zero-tolerance policy is overly burdensome and undermines the purpose of the Meaningful Use requirements. The audit program does not appear to take into consideration the high likelihood that a failed audit can be caused simply by missing documentation rather than by not achieving the Meaningful Use requirements. The "all or nothing" nature means that missing one document may lead to a failed audit and a repayment of the full subsidy payment. The AAFP does not believe this is fair nor does it encourage practices that have not yet adopted an EHR to pursue one. The AAFP believes the physician community and EHR vendors need increased transparency from HHS regarding audit statistics including the number of audits and the failure rate. It would be helpful to have a report on what documentation was missing from failed audits. That would enable eligible professionals to have a better understanding over the type and granularity of documentation required. Finally, we call for further clarity around an entity's financial responsibility in situations in which the physician is not responsible for the MU implementation because he or she was employed (and had payments assigned to the employer) when the MU attestation occurred but who is now no longer employed by the same entity.

We appreciate the opportunity to provide express these concerns and recommendations. Please contact Steven E. Waldren, MD, MS, Director, Alliance for eHealth Innovation at 800-274-2237, extension 4100 or swaldren@aafp.org.

Sincerely,

A handwritten signature in black ink that reads "Reid B. Blackwelder MD". The signature is cursive and includes a stylized flourish at the end.

Reid B. Blackwelder, MD, FFAFP
Board Chair

CC: Dr. Karen B. DeSalvo, MD, MPH, MSc