



September 23, 2014

Marilyn Tavenner, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9941-P
P.O. Box 8010, Baltimore
MD 21244-8010

Dear Administrator Tavenner:

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 substantial concerns over the threat that some physicians may be financially penalized in 2015 if they have not attested to being a Meaningful User by October 1, 2014.

Under the [final rule](#) titled “Modifications to the Medicare and Medicaid Electronic Health Record (EHR) Incentive Program for 2014 and Other Changes to the EHR Incentive Program; and Health Information Technology: Revisions to the Certified EHR Technology Definition and EHR Certification Changes Related to Standards” published in the September 4, 2014 *Federal Register*, CMS wisely increased flexibility by allowing physicians who are attesting to Meaningful Use for the first time this year to use 2011 edition certified electronic health record technology (CEHRT) to attest to 2013 edition of Stage 1. Before this final rule was published, physicians were required to use 2014 edition CEHRT to attest to 2014 edition Stage 1.

Recently it came to the AAFP’s attention that the CMS attestation portal will not be upgraded until mid-October to allow for these physicians to attest to the 2013 edition of Stage 1. Therefore, due to the lack of an upgraded CMS portal, some of our members may be improperly penalized in 2015.

The AAFP strongly urges CMS to fully operationalize the flexibility offered in the recent final rule by immediately upgrading the CMS attestation portal. If CMS is unable to upgrade the website immediately, the AAFP believes CMS should extend the attestation timeframe well beyond October 1 in order to allow physicians to attest and not be penalized in 2015.

We remain concerned that CMS may penalize physicians who have not attested in 2014 especially considering that the *Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009* states that the penalties would be for those who are not meaningful users in 2015.

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We appreciate the opportunity to provide these comments and your consideration of our concerns. 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, appearing to be 'J. Cain', with a long horizontal flourish extending to the right.

Jeffrey J. Cain, M.D., FAAFP
Board Chair

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