

September 17, 2015

The Honorable Sylvia Mathews Burwell  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Re: Medicare and Medicaid Electronic Health Record Incentive Program

Dear Secretary Burwell,

We are writing to ask that you refrain from finalizing Meaningful Use Stage 3 at this time and work to refocus the program to better serve patients and the providers who care for them. We have an interest in being active partners in successfully enabling health information technology to serve as the digital infrastructure necessary to achieve delivery system reform and meet the needs of a modern healthcare system. To that end, we urge you to refrain from finalizing Meaningful Use Stage 3 and 2015 Edition Certification at this time.

Six years after passage of Health Information Technology for Economic and Clinical Health Act (HITECH,) there exists an opportunity to make policy decisions apart from the arbitrary deadlines of the EHR Incentives Program. We believe that additional time is necessary for the proper evaluation and optimization of implemented technology to ensure the technology can ensure better quality care for all patients.

We believe that the Stage 3 rule should be paused as it should rely on proven technology—designed outside the limitations of current federal requirements—that can support a shift to outcomes and interoperability rather than measures and objectives. Unfortunately, the proposed Stage 3 rule, currently under review at the Office of Management and Budget (OMB), exacerbates current problematic policies of Stage 2. We should incentivize technology that enables interoperability and improved health outcomes rather than incentivizing technology that counts how many times a provider performs an activity. The additional time would also give policymakers a chance to understand how the private sector performs relative to modifications proposed for program years 2015 through 2017. Taking the time to get it right now will surely pay dividends in the future.

Further, pausing Stage 3 at this time will provide the opportunity to evaluate the environment after these regulatory changes and consider the implementation issues surrounding the Merit-Based Payment System (MIPS) and Alternative Payment Models (APMs). Since the Stage 3 regulation was developed in a world prior to the Medicare Access and CHIP Reauthorization Act (MACRA), CMS should take the opportunity to reevaluate Stage 3 in light of MIPS and APMs.

While healthcare providers are committed to implementing EHRs, many are becoming disenchanted by the seemingly unrealistic expectations dictated by the Meaningful Use Program. Unfortunately, the frustrations voiced by providers and policymakers regarding the systems

deployed in over 80 percent of hospitals and physician offices are real. According to the Centers for Medicare & Medicaid Services (CMS), an estimated 257,000 providers are currently subject to payment adjustments in the 2015 program year for failing to meet the Meaningful Use Program's requirements. We believe this signals a failure that is indicative of issues outside the hands of health care providers. We believe the solutions to address the provider community's concerns are well within the Department's reach and action must be taken now, as we have arrived at a pivotal time in the Program.

We appreciate the opportunity to share our constituents' perspectives on the need to reevaluate how we can foster an interoperable health information infrastructure that does not disrupt patient care. We reiterate the importance of refraining from issuing the Meaningful Use Stage 3 and the accompanying certification rule until a rigorous evaluation of provider participation in Stage 2 has been completed. Frankly, we were surprised and disappointed to see that the Stage 2 modifications rule was transmitted to OMB simultaneous to the transmission of the Stage 3 final rule and the new EHR certification rule. A learning health system should incorporate the lessons learned from Stage 2 into Stage 3. This is not possible at present because a minority of providers have achieved Stage 2 and because the Stage 2 modifications rule has yet to be implemented.

In order to ultimately reach our shared goals of better health care, smarter health care spending and healthier patients, the administration needs to take time to reevaluate the program. We ask that you refrain from finalizing Meaningful Use Stage 3 at this time and work to refocus the program to better serve patients and the providers who care for them. We respectfully ask for a response no later than 30 days from the receipt of this letter.

Yours truly,

Renee Ellmers  
Member of Congress

Tom Price  
Member of Congress

David Scott  
Member of Congress

*Please contact either Kristi Thompson (Rep. Renee Ellmers) at [Kristi.thompson@mail.house.gov](mailto:Kristi.thompson@mail.house.gov) or Carla DiBlasio (Rep. Tom Price) at [Carla.Diblasio@mail.house.gov](mailto:Carla.Diblasio@mail.house.gov) if your boss would like to sign this letter.*