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May 30, 2019

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services (HHS)
Attention: CMS-9115-P
P.O Box 8016
Baltimore, MD 21244-8016

Re: Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans in the Federally Facilitated Exchanges and Health Care Providers (CMS-9115-P)

Submitted electronically to:
https://www.regulations.gov/

Dear Administrator Verma:

The eHealth Initiative (eHI) welcomes the opportunity to submit comments on the *Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans in the Federally Facilitated Exchanges and Health Care Providers*.

This proposed rule is cited by HHS as a key step in the "digital data revolution to empower America's patients." We are pleased to see patients and healthcare consumers at the center of the transformational changes in this proposed rule. eHI's two decades of work and its diverse, powerful membership have worked towards his goal and built needed momentum to move the health IT field forward at critical junctures. We are prepared to do so again as these rules are finalized and move into practice.

Overall, eHI appreciates the proposed rules' role in moving healthcare forward and the increased emphasis on the lynchpins of:

- Improving the interoperability of electronic health information;
- Enhancing care coordination; and
- Fostering innovation that promotes patient access/control.

We urge CMS however to carefully consider the adequacy of current health care infrastructure and systems to support proposed changes, reasonable implementation timeframes, as well as any potentially negative and disruptive impacts on current, successful infrastructure and practices, especially in the case of interoperability.

eHI is in a unique position to comment and offer insight on this proposed rule as a Washington DC-based, independent, non-profit organization whose mission is to drive improvements in the quality, safety, and efficiency of healthcare through information and information technology. We are the only national organization that represents all stakeholders in the healthcare industry and regularly "convene healthcare's best." Working with its membership, eHI advocates for the use of health IT that is practical, sustainable and addresses stakeholder needs, particularly those of patients, www.ehidc.org. eHI's work and its membership have built needed momentum and moved the health IT field forward at critical junctures.

A timely example of this is three active, impactful eHI workgroups to improve care for patients with chronic conditions. These workgroups include:

- Value & Reimbursement
- Technology & Analytics
- Workflow for Provider and Patient Engagement

The workgroups' mission includes looking at closing gaps in data, removing barriers to sharing information, educating patients and providers about consent to share data, incentivizing data sharing and patient engagement. Many of these same issues are addressed by CMS' proposed regulation. Our organization also tackles timely issues such as electronic medication adherence, prior authorization in healthcare, and technical solutions to cost transparency and using social determinants of health (SDOH) data to improve patient and population outcomes. On-going eHI workgroup dialogue and products --including best practices and recommendations for policy and industry -- enable our organization to have valuable insights for CMS as elements of this proposed rule proceed ahead.

eHI's extensive *eHealth Resource Center* -- a clearinghouse of success stories, reports, surveys and other material -- can also provide important context and guidance as CMS moves forward. This information hub can be accessed at: https://www.ehidc.org/resources.

We look forward to working with you and other key federal government players towards better patient care, provider flexibility and truly value-based care for all.

Below are eHI's observations and recommendations. If you have any questions or need clarifications, please contact me at **Jennifer.Covich@ehealthinitiative.org.**

Sincerely,

Jennifer Covich Bordenick
Chief Executive Officer
eHealth Initiative

Response on Specific Issues

Overarching

Agency Coordination – eHI urges CMS to work practically and thoughtfully with other federal partners in implementing programs related to this proposed rule, particularly in the area of interoperability and enhancing care coordination.

III. Patient Access Through APIs (Expanding the Availability of Health Information)

Promoting Patient Access to and Control over Health Information

Comments: eHI congratulates ONC for anchoring a major tenet of this proposed rule around fostering innovation that promotes patient access to and control over their health information. This principle has long been at the heart of the eHI mission. Indeed, *eHI's 2020 Roadmap* lays out our shared vision to transform care delivery with patient-centric care and calls for: (1) timely and relevant patient-focused information and health IT tools available to all; and (2) high quality and efficient patient care through the use of interoperable health IT. Key recommended tools to support this vision in the *eHI 2020 Roadmap* include meaningful incentives that promote patient-focused care, as well as information and tools that enable informed patient-consumer action and decision making, working hand-in-hand with healthcare providers. ONC's proposed rule gives implementation impetus to these broad goals and we look forward to working with you and other relevant agencies towards achieving these aims.

eHI's past comments to HHS on the "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2019 Rates" are also relevant here that, "Patient self-efficacy is critical in value-based payment and patient engagement/education is fundamental to that success. Also, free-market innovation in health care is best empowered through initiatives and standards that support the consumer/patient access to records, interoperability for patients and the tools that increase their knowledge."

III. Patient Access Through APIs (Open API Proposal for MA, Medicaid, CHIP, and QHP Issuers in FFEs)

APIs – CMS proposes to have its regulated payors and agencies (Covered Plans and Agencies) implement application programming interfaces (APIs) that allow patient information to be shared more readily between patients, health care providers and payors. Specifically, Medicare Advantage (MA) plans, Medicaid state agencies, Medicaid managed care plans, Children's Health Insurance Program (CHIP) agencies, CHIP Managed Care entities, and issuers of qualified health plans (QHPs) in Federally-Facilitated Exchanges (FFEs) are required adopt and implement an "openly published" API that permits third-party software applications to retrieve—at the direction of the patient—specific clinical and payment information.

Comments: eHI agrees that "this approach would provide a stable and consistent direction in which the industry can go when it comes to deploying (g)(10)-certified APIs that support data access to the USCDI" and that API functionality is critical for better electronic access to health information for patients and providers and in achieving interoperability. eHI commends CMS and ONC for selecting an innovative and flexible suite of standards and

associated resources, including HL7® Fast Healthcare Interoperability Resources (FHIR®). However, we urge that prior and ongoing interoperability lessons and successes --both private and public-- should be leveraged. eHI is the nation's most diverse coalition of health care stakeholders and stands ready to provide insight on these issues.

We also register caution and concern about complex and costly compliance, documentation, patient education and healthcare stakeholder risk and liability issues related to the proposed API provisions. Significant steps to implement APIs will be required and all parties will need to work together to ensure a measured, secure, informed and realistic approach to this transition.

Particularly aggressive are the API implementation and data availability timeframes - January 1, 2020 for MA plans and QHP issuers in FFEs, July 1, 2020 for Medicaid FFS, Medicaid managed care plans and CHIP managed care entities.

XIII. Request for Information on Policies To Improve Patient Matching

Patient Matching RFI – Both CMS and ONC are requesting feedback about how agency authority can be leveraged to improve patient identification and safety to encourage better coordination of care across different healthcare settings while advancing interoperability.

eHI offers our organization as a robust, multi-stakeholder forum to gather feedback on this critical issue. Our membership contains leading voices on patient matching that provide a diversity of views. A full eHI member list can be accessed at: https://www.ehidc.org/members.

eHI supports CMS' intent to leverage its program authority to improve patient identification, thereby facilitating improved patient safety, enabling better care coordination and advancing interoperability. As AHIMA notes, today there is no consistent approach to accurately matching a patient to their health information which has led to significant costs to hospitals, health systems, physician practices, long-term, post-acute care (LTPAC) facilities, and other providers.

We offer the following comments in response to the questions posed by CMS under this Request for Information (RFI).

(1) Should CMS require Medicare FFS, MA Plans, Medicaid FFS, Medicaid managed care plans (MCOs, PIHPs, and PAHPs), CHIP FFS, CHIP managed care entities and QHP issuers in FFEs (not including SADP issuers) use a patient matching algorithm with a proven success rate of a certain percentage where the algorithm and real world processes associated with the algorithm used are validated by HHS or a 3rd party?

(2) Should CMS require Medicare FFS, the MA Plans, Medicaid FFS, Medicaid managed care plans, CHIP FFS, CHIP managed care entities, and QHP issuers in FFEs to use a particular patient matching software solution with a proven success rate of a certain percentage validated by HHS or a 3rd party?

The use of sophisticated technologies including advanced patient matching algorithms and patient matching software solutions are crucial to improving patient matching. However, even the most advanced technologies cannot eliminate the risk of human error. For that reason, data governance and data quality improvement policies and procedures are fundamental to improving overall patient matching rate and data integrity in general. Rather

than choosing to adopt a specific technological approach (e.g., — specific patient matching algorithm, patient matching software solution, biometrics, etc.), which could impeded innovation, we recommend that CMS consider, at a minimum, encouraging Medicare FFS, the MA Plans, Medicaid FFS, Medicaid managed care plans, CHIP FFS, CHIP managed care entities and QHP issuers in FFEs to annually evaluate their patient demographic data management practices using the Office of the National Coordinator (ONC)'s Patient Demographic and Data Quality (PDDQ) Framework.

(3) Should CMS expand the recent Medicare ID card efforts by requiring a CMS-wide identifier which is used for all beneficiaries and enrollees in healthcare programs under CMS administration and authority, specifically by requiring any or all of the following:

- ***That MA organizations, Part D prescription drug plan sponsors, entities offering cost plans under section 1876 of the Act, and other Medicare health plans use the Medicare ID in their plan administration***
- ***The State Medicaid and CHIP agencies in their FFS or managed care program use the Medicare ID for dual eligible individuals when feasible.***
- ***That QHP issuers in FFEs use the Medicare ID for their enrollees in the administration of their plans.***

We recommend at a minimum, that CMS pilot such an agency-wide identifier to evaluate its effectiveness in the programs cited above. We also recommend that CMS publicly release the findings of the pilot study. Such transparency will help move private-sector led initiatives forward in the development of a coordinated national strategy to enhance patient identification.

(4) Should CMS advance more standardized data element across all appropriate programs for matching purposes, perhaps leveraging the USCI proposed by ONC for HHS adoption ay 45 CFR 170.213?

eHI recommends that CMS work with ONC to require, as part of the US Core Data for Interoperability (USCDI), the use of well-tested standards for certain demographic data elements to improve patient matching rates. We also recommend that CMS work with ONC, industry and experts to identify other regularly collected demographic data elements that could be incorporated into the USCDI to improve patient matching.

Finally, eHI urges ONC to pay careful heed to the answers received in response to the patient matching RFI.