June 24, 2016

Mr. Andy Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue SW
Washington, DC 20201

Dear Acting Administrator Slavitt:

eHealth Initiative (eHI) appreciates the opportunity to respond to the request for public comment on the proposed rule *Medicare Program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive Under the Physician Fee Schedule and Criteria for Physician-Focused Payment Models*. (File Code CMS-5517-P)

eHI is in a unique position to comment and offer insight on these pending and significant Medicare payment reforms. We are the only independent non-profit, multi-stakeholder coalition dedicated to improving the quality, safety, and efficiency of healthcare through the use of technology and health information. Also, eHI's field-leading *2020 Roadmap* activities identify and seek to incentivize the best path forward towards health system transformation in critical areas such as data use/analytics and interoperability. eHI's work and its membership have built needed coalitions and moved the health IT field forward at critical junctures. We look forward to continuing this progression and working with key federal government players for better patient care.

Regarding this proposed regulation, overall eHI applauds CMS for being on the vanguard of health system change, providing a detailed implementation framework and outlining measures for a highly complex law (MACRA). eHI also commends CMS for putting an emphasis in these new regulations on the central importance of patient/family engagement, care coordination and effective health information exchange and interoperability. We do have notable concerns however with tight timelines, highly intricate and at times, difficult to understand regulatory provisions and other issues which are outlined below. As a multi-stakeholder coalition with significant experience in health IT, eHI looks forward to providing additional input. If you have any questions, please contact me at Jennifer.Covich@ehealthinitiative.org.
Sincerely,

Jennifer Covich Bordenick
Chief Executive Officer
eHealth Initiative

Response on Specific Issues

General

eHI acknowledges and thanks CMS for keenly listening and responding in good faith to key issues raised in context of MACRA legislation. eHI also applauds CMS for its overall appreciation of the role HIT that must play in achieving the goals of MACRA. The robust use of health IT and health information exchange (HIE) is fundamental to achieving the foundational goals of MIPS and APMs that were created by MACRA to incentivize high-quality, efficient practices, coordinated care and improved health outcomes.

Timelines

Overall caution was expressed by our stakeholders on the tight timelines in the proposed rule, particularly with the first reporting year beginning January 1, 2017. By starting the MIPS and APM programs on January 1, 2017, stakeholder and infrastructure readiness could be in doubt, particularly if the industry does not have a Final Rule until Autumn 2016. For 2017, there is particular concern on vendor reporting and dashboard readiness. In fact, the timelines for having 2015 certified functionality in 2018 (let alone 2017) remain very challenging. We have serious concerns that there will be inadequate time to not only include new measures, but also to test and ensure data submitted is accurate and reliable. It is in the interest of all healthcare stakeholders to achieve a successful launch of the new initiatives in the proposed rule with no hiccups. A close look at timelines is urged, as well as on-going discussions about readiness, particularly as Executive Branch and other government transitions begin in early 2017.

Complexity

While it must be recognized that CMS made important moves towards simplification, the proposed regulation is overall too complex, intricate and difficult to understand with the challenge of multiple reporting channels. Importantly, this complexity could significantly impact the ability of some to participate in the new and expanded initiatives outlined in the rule, such as small physician practices, which CMS itself forecasts are much more likely to face MIPS payment cuts. Another look at simplification is strongly urged.

Measures

As an organization representing a broad range of stakeholders across the healthcare spectrum, eHI has concerns with the total number of measures that must be used across the four MIPS performance categories. Further, we question the associated scoring complexity, including the very high bar set for the Advancing Care Information (ACI) performance category (with 100% performance required to get the maximum score of 10) and the associated pressures for performance well above the current Stage 3 thresholds. In order to encourage active EC engagement, we urge CMS to identify further opportunities to simplify MIPS -- particularly its categories and associated scoring -- and to finalize with aggressive but still reasonably achievable maximum scores.

Additionally, the significant development work that would need to take place very quickly and on an on-going yearly basis for the new clinical quality measures (CQMs), with CQMs finalized as late as 11/1 of the year before the performance year, presents difficulties. There is also concern that enough time may not be allotted to ensure related measures in the proposed rule are of a high quality from both a clinical and technical perspective.

We urge CMS to issue more information regarding CPIAs, such as through sub-regulatory guidance, to avoid unintended reporting errors. Lastly, an examination of any relevant work being conducted by the Core Quality Measures Collaborative is recommended.

Advancing Care Information (ACI) Provisions

ACI Overarching Comments:

Given that eHI's activities are focused on making progress with the issues of HIE and interoperability, we support the prioritization of measures that promote the policy objectives of interoperability, care coordination, and patient engagement, among others. Focusing on these policy priorities will help providers direct their attention to the objectives and measures that have the greatest potential for improvement and impact on delivery system reform, and which often require more robust changes to workflow and corresponding organizational culture.

ACI Eligibility Comments:

Regarding newly eligible MIPS clinicians using CEHRT for the first time, eHI encourages CMS to invest resources to support clinicians new to using health IT in fulfilling the ACI performance category, including conducting oversight, and providing timely feedback on how all clinicians are fulfilling measures of health IT use.

ACI Flexibility Comments:

eHI highlights a few key difficulties that arise with the proposed ACI provisions. First, there is not as much flexibility as previously suggested or anticipated, and the ACI provisions do not represent a significant advancement from current Meaningful Use requirements.

2017 – Second, uncertainty was expressed about whether MIPS ECs were disadvantaged if they report using 2014 CEHRT/ Stage 2 measures (only having six measures to draw from in the performance score rather than the eight), as most will in 2017. eHI urges clarification and suggests the need to adjust scoring so providers using 2014 CEHRT/Stage 2 have as much flexibility to achieve higher performance, given fewer measures to choose from.

In addition, eHI recommends that CMS should maintain existing program hardship categories and exclusions and that the following issues should be addressed in the Final Rule:

- Stage 2 and Stage 3 clinicians should have the same flexibility when it comes to reporting public health measures; and
- The proposal to use a composite ACI score of 75 points as the bar for determining the share of physicians that are meaningful EHR users is likely too high, given experience with the program.

Program Bifurcation

eHI highlights the issue of program bi-furcation between physicians and hospitals (and Medicare and Medicaid physician services). eHI is concerned that the new MIPS requirements will result in ambulatory clinicians using technology in different ways than those hospitals under Medicare, as well as differences between all providers under Medicaid. To ensure that key healthcare stakeholders have the ability to share information in support of clinical care, it will

be important for hospitals and Medicaid providers to have similar flexibilities with respect to the meaningful use requirements that they will continue to operate under. Without alignment across providers and other relevant players, they cannot be successful in delivering optimal patient care across the health care system.

Future Program Improvements

In order to manage their businesses in the midst of the forthcoming changes to payment and delivery under MACRA, providers need to be able to select measures and activities that are most closely aligned with their practice and needs.

eHI recommends that moving forward, providers should be encouraged to select quality measures, clinical practice improvement activities and relevant ACI measures that complement one another. Taking a more holistic, comprehensive approach could strengthen overall efforts to achieve comprehensive, high-quality, and well-coordinated patient- and family-centered care.

For example, a provider may choose to focus on managing chronic conditions within their patient population, choosing care plan-related CPIAs, quality measures that focus on patient experience and/or improved outcomes, and ACI measures that leverage patient-centered communication (soliciting goals for PGHD, encouraging patients to access lab results via a patient portal, etc.).

Other

eHI wishes to briefly highlight a few closing areas of concern covered in the proposed regulation including:

- The notable challenge of multiple reporting channels and high reporting thresholds (in both ACI and quality MIPS categories) which may limit patient choice; and
- CMS' overly restrictive definition of Advanced APM that will require many physicians to report and stay within the MIPS program.

On a positive note, eHI commends CMS' initial approach to APM CEHRT in the proposed rule that provides physicians the flexibility in how they use technology and improve care for patients. We urge that this remain the same as MIPS and high-level assessment of CEHRT use.