

United States Senate
WASHINGTON, DC 20510

October 17, 2012

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Secretary Sebelius:

We write to formally request that relevant staff from the Centers for Medicare and Medicaid Services (CMS) and the Office of the National Coordinator for Health Information Technology (ONC) meet with staff from the Senate Finance and Senate Health, Education, Labor, and Pensions Committees regarding the final rule for the Stage 2 of Meaningful Use for the adoption of electronic health records.

We appreciate the Administration's commitment to having dialogue with Congress on the issue of our nation's adoption of electronic health records; however, the recent briefing did not provide sufficient time and opportunity to fully cover the full range of questions regarding the final rule and related implementation issues, many of which have been informed by dialogue with our constituents directly impacted by this program. For example, recent media reports and independent analysis have highlighted several important questions to address:

- Does the use of taxpayer-subsidized electronic health records (EHRs), in some circumstances, actually increase the utilization of diagnostic tests rather than reduce them? What is the Administration's strategy to address what may be an unintended consequence of federal policy – higher utilization of tests and higher spending across the health system?ⁱ
- Have some health care providers received federal subsidies for EHR systems they already had in place prior to the adoption of federal standards and mandates? If so, what steps is the Administration taking to recoup any inappropriate payments and what additional program integrity measures have been adopted?ⁱⁱ
- Has the digitalization of records and broader adoption of EHRs increased providers' billing of Medicare and thereby increased the overall costs of the program for taxpayers?ⁱⁱⁱ
- Since federal rule-making has largely focused on stakeholders' adoption and "meaningful use" of EHRs, what is the Administration's strategy for meaningful interoperability, since they acknowledge current interoperability standards remain insufficient and incomplete?^{iv}

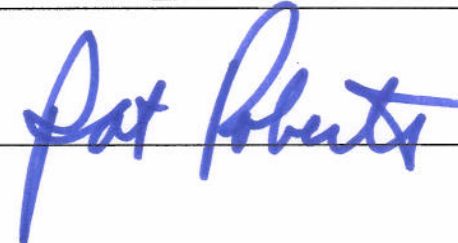
The final rule for Stage 2 of Meaningful Use affects the direction of health care delivery and the future use of health information technology across our nation. To date, more than \$6.6 billion has been paid out in incentives to health care providers. Fully understanding the next steps for this significant federal investment and the decisions made in the final rule are a critical part of fulfilling our role in conducting oversight over this program and representing the concerns of our constituents as elected Members of Congress. Therefore, we respectfully request another meeting, with the objective to ensure an opportunity to fully discuss the outstanding questions and continue the productive dialogue that was started during the recent briefing, but which Administration staff did not have sufficient time to complete.

We believe this additional conversation will provide an important opportunity for the Department of Health and Human Services to hear from and respond to outstanding Congressional questions on this issue. To ensure the most productive and efficient meeting, we further request that the relevant staff with appropriate technical knowledge of the final rule are made available no later than October 26, 2012, for as much time as is necessary to adequately respond to the questions we have on the final rule for Stage 2.

Thank you in advance for your prompt attention to this request.

Sincerely,





ⁱAbelson, Reed and Creswell, Julie. "U.S. Warning to Hospitals on Medicare Bill Abuses." The New York Times, September 24, 2012. http://www.nytimes.com/2012/09/25/business/us-warns-hospitals-on-medicare-billing.html?_r=0

ⁱⁱiHealthBeat, "Incentives Going To Doctors Who Were Already Using Health IT," October 13, 2011. <http://www.ihealthbeat.org/articles/2011/10/13/incentives-going-to-doctors-who-already-were-using-health-it.aspx?p=1#ixzz1agzC4UfH>

ⁱⁱⁱSoumerai, Stephen and Koppel, Ross. "A Major Glitch for Digitized Health-Care Records," The Wall Street Journal, September 17, 2012. http://online.wsj.com/article/SB10000872396390443847404577627041964831020.html?mod=googlenews_wsj

^{iv}Manos, Diana. "More Voices Raised Against EHR Incentives," HealthcareIT News, October 9, 2012. <http://www.healthcareitnews.com/news/more-voices-raised-against-ehr-incentives?topic=,08>