

June 26, 2018

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
Room 445-G
200 Independence Avenue, SW
Washington D.C. 20201

BY ELECTRONIC DELIVERY

Re: Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNF) Proposed Rule for FY 2019, SNF Value-Based Purchasing Program, and SNF Quality Reporting Program ([CMS-1696-P])

Dear Ms. Verma:

The Consumer Technology Association (CTA™) appreciates the opportunity to submit comments on the Centers for Medicare & Medicaid Services (CMS) Request for Information (RFI) on Promoting Interoperability and Electronic Healthcare Information Exchange Through Possible Revisions to the CMS Patient Health and Safety Requirements for Hospitals and Other Medicare- and Medicaid-Participating Providers and Suppliers issued May 8, 2018.¹

CTA is the trade association representing the \$321 billion U.S. consumer technology industry, which supports more than 15 million U.S. jobs. More than 2,200 companies – 80 percent are small businesses and startups; others are among the world’s best known brands – enjoy the benefits of CTA membership, including policy advocacy, market research, technical education,

¹ 83 Fed. Reg. 21,018, 21,089 (May 8, 2018).

industry promotion, standards development, and the fostering of business and strategic relationships. CTA also owns and produces CES® – the world’s gathering place for all who thrive on the business of consumer technologies. Profits from CES are reinvested in CTA’s industry services.

CTA’s membership includes medical device manufacturers and general health and fitness firms that are commercializing technologies focused on improving patient care through remote patient monitoring services while empowering consumers and patients in their own care. These services aim to change the way health care is delivered, improve patient outcomes, and enable medical efficiency. CTA therefore appreciates CMS’s efforts to encourage the use of fully interoperable health information technology (IT) and electronic health record (EHR) systems for Medicare- and Medicaid-participating providers and suppliers. In particular, CTA encourages CMS to propose new Conditions of Participation (CoPs), Conditions for Coverage (CfCs), and Requirements for Participation (RfPs) for Long Term Care Facilities to further advance electronic exchange of information that supports safe, effective transitions of care between hospitals and community providers, and allows for greater patient engagement in their care.

CMS Should Propose and Adopt New CoPs/CfCs/RfPs to Address Information Blocking

CTA believes that adopting new CoPs/CfCs/RfPs to require electronic exchange of medically necessary information would help to reduce information blocking. As defined in the 21st Century Cures Act, “information blocking” is a practice, which can be conducted by health IT developers, health care providers, and others, that “is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information.”²

CTA recognizes that the problem of information blocking is complicated and, as the Office of the National Coordinator for Health Information Technology (ONC) found in its 2015 Report to Congress, involves many countervailing interests.³ CTA does not believe that current Medicare and Medicaid policies, Health Insurance Portability and Accountability Act (HIPAA) requirements, or the implementation of relevant policies in the 21st Century Cures Act will completely address the problem of information blocking. Further, CTA believes that information blocking is detrimental to patients’ health and the integrity and efficiency of the health care system. To that end, CTA supports CMS as it considers more direct requirements on providers and suppliers to prevent information blocking.

New CoPs/CfCs/RfPs could help address the problem of information blocking by prohibiting Medicare- and Medicaid-participating providers from refusing to transfer medically necessary

² 21st Century Cures Act, Pub. L. No. 255, § 4004, 130 Stat. 1033, 1176 (2016).

³ ONC, Report on Health Information Blocking 13 (Apr. 2015), https://www.healthit.gov/sites/default/files/reports/info_blocking_040915.pdf.

information electronically to another facility upon a patient transfer or discharge. A CoP/CfC/RfP along these lines would directly address provider-based information blocking conduct, and would incentivize providers to select health IT vendors who will refrain from information blocking activities in order to comply with the CoP/CfC/RfP. CTA believes that such a CoP/CfC/RfP could be crafted to address patient privacy concerns and HIPAA requirements, while improving care coordination and patient outcomes. CTA supports CMS in adopting a CoP/CfC/RfP to require electronic transfer of medically necessary information upon transfer or discharge.

CTA Supports CoPs/CfCs/RfPs That Would Enable Patients to Easily Obtain and Use Their Own Health Information

Interoperability has the potential to improve patient outcomes through increased patient involvement in their own care. Patient-centered care has the potential to reduce the risk of errors and hospital admissions.⁴ A critical requirement for effective patient-centered care is ensuring that patients and their caregivers have easy, usable access to important health information, potentially including discharge instructions and complete lists of prescription medications. Current EHR technologies have some capabilities to export health information in accessible formats and third party applications, but often those exportations are not interoperable across different EHR platforms. This lack of interoperability can prevent patients from accessing all of their important health information in one location.

CTA supports actions that would increase patient access to and utilization of their health information. Specifically, CMS should propose and adopt CoPs/CfCs/RfPs that would require providers to make certain information available to patients or a specified third-party application (for example, required discharge instructions) via electronic means if requested. Such a measure would allow patients to easily access important health information for their own care, and allow patients and caregivers to collect important health information from multiple providers in one, easy-to-use application.

For all of these reasons, CTA urges CMS to adopt CoPs/CfCs/RfPs to require the electronic transfer of medically necessary information to other providers and of certain important information to patients in order to improve care coordination, patient outcomes, and patient safety.

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⁴ See Agency for Healthcare Research and Quality, *Patient Engagement and Safety* (last updated June 2017), <https://psnet.ahrq.gov/primers/primer/17/patient-engagement-and-safety>.

CTA thanks CMS for this opportunity to comment on the RFI and appreciates CMS's time and consideration of these comments and how to accomplish the goal of fully interoperable health IT and EHR systems, with patient access to important health information. We would be happy to discuss our comments with you. If you have any questions, please do not hesitate to contact me at 703-907-4341 or kfabrizio@CTA.tech.

Respectfully submitted,

Consumer Technology Association

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