Alliance of Specialty Medicine

Sound Policy. Quality Care.

July 28, 2014

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-0813

Re: Open Payments Program: Registration Processes / Review, Dispute and Correction of Public Data

Dear Administrator Tavenner:

On behalf of the Alliance of Specialty Medicine (the Alliance) and its member organizations, we write to share concerns with the implementation of the Open Payments program. The Alliance is a coalition of medical specialty societies representing more than 100,000 physicians and surgeons dedicated to the development of sound federal healthcare policy that fosters patient access to the highest quality specialty care. Our members are concerned about difficulties accessing and completing registration for Open Payments in a timely manner and believe that the program's structure lacks adequate means to limit publication of inaccurate information, which harms both patients and providers.

Throughout the Open Payments rulemaking process, our societies have supported the underlying goal of transparency, while also believing that relationships between physicians and the health care industry can lead to important advancements in technology and improved patient care. We have also been receptive to efforts to develop uniform procedures for disclosing relevant information in a way that minimizes confusion and misrepresentation. However, we ask that the Centers for Medicare and Medicaid Services (CMS) address the following concerns prior to publication of any financial data.

Difficult Registration Process Needs Sufficient Clarity and Enhanced Guidance

The Alliance appreciates the time constraints and daunting logistical concerns that CMS faced while implementing Open Payments. In that regard, the specialty medicine community applauds the ongoing flow of information facilitated by officials at CMS, which continues to be of great value to the provider community. However, we are concerned that the lack of adequate notice before the beginning of registration periods has handicapped providers that hope to participate in the program in

a meaningful manner. This concern is magnified by the lengthy registration process and the obstacles it poses.

Given the importance of sufficient participation levels and the role of physicians in ensuring data integrity, the Alliance is concerned that the failure to provide sufficient notice could be a detriment to the program's performance. Further, members of the provider community have legitimate worries about the lack of guidance and the complexity of enrollment mechanisms. We respectfully ask that CMS provide additional provider-specific guidance for the registration process and adopt policies that allow for flexibility of enrollment requirements so that physicians struggling to enroll remain able to participate prior to data publication.

Review and Dispute Process Lacks Necessary Protections for Physicians

The Alliance in previous comments to CMS spoke to the importance of an impartial process for disputing the accuracy of financial information intended for public disclosure. On February 17, 2012, the Alliance specifically asked that CMS assume responsibility for ensuring the validity of published data as a means of both enhancing the integrity of the information and lessening burdens on providers in the absence of a uniform dispute process. Unfortunately, CMS recently made clear that the burden of disputes and adjudication falls entirely on health care providers and industry.

Our members are concerned that this approach does not provide a sufficient means of challenging false information or miscalculations, which can have a significant impact on a physician's credibility and practice. This is particularly troublesome for disputes involving data that depends on allocation of larger costs or requires combining many smaller transactions throughout the year, such as food and beverage totals. In these situations, correction of the misinformation will rely completely on the ability of industry reporting entities to execute the appeal in a timely manner. Already anecdotal evidence is demonstrating that reporting entities are sometimes unable to respond quickly, which has a disproportionate impact on physicians and leaves no alternative appeals mechanism.

In the absence of a well-defined reconciliation process, the Alliance believes that CMS should safeguard the mission of the Open Payments program by taking steps to limit the publication of false information that can impact patient decision-making. However, CMS in its guidance to health care providers stated that information under dispute without reconciliation will nonetheless be posted online for public viewing with a disclaimer. The Alliance believes that the disclaimer offered by CMS fails to sufficiently protect the reputation of health care providers and distributes actionable, but potentially false, information that could impact a patient's decision to choose a health care provider.

As the collector and publisher of financial information, we respectfully ask that CMS take steps to enhance the fairness and accuracy of the Open Payments program by ensuring that health care providers have access to a meaningful mechanism for limiting the distribution of disputed information. Current standards fail to meet these goals by creating a reporting system where the default result of any dispute is publication, whether with or without a disclaimer. Such a process fails to fully consider the significant weight that patients may place on the information published by CMS and the prejudicial effect that even disputed information can have on health care decision-making.

For these reasons, we strongly support revisions to the Open Payments program to ensure that health care providers have access to a fair and impartial means of disputing inaccurate information and protecting against its publication. Thank you for your consideration of the concerns of specialty physicians.

Sincerely,

American Academy of Facial Plastic & Reconstructive Surgery
American Association of Neurological Surgeons
American College of Mohs Surgery
American Gastroenterological Association
American Society of Cataract and Refractive Surgery
American Society for Echocardiography
American Society of Plastic Surgeons
American Urological Association
Coalition of State Rheumatology Organizations
Congress of Neurological Surgeons
North American Spine Society
Society for Cardiovascular Angiography and Interventions
Society for Excellence in Eyecare