

May 15, 2012

Marilyn Tavenner  
Acting Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

**RE: Extension of the reporting and hardship exemption request deadline to avoid 2013 E-prescribing penalties**

Dear Administrator Tavenner:

The Medical Group Management Association (MGMA) would like to bring to your attention several concerns we have with the agency's approach to penalizing eligible professionals (EPs) in the electronic prescribing (e-prescribing) program. Among other things, we urge the Centers for Medicare and Medicaid Services (CMS) to take immediate action to extend the current reporting and hardship exemption request deadline of June 30, 2012 to avoid 2013 e-prescribing penalties.

MGMA-ACMPE is the premier association for professional administrators and leaders of medical group practices. Since 1926, the Association has delivered networking, professional education and resources, advocacy and certification for medical practice professionals. The Association represents 22,500 members who lead 13,600 organizations nationwide in which some 280,000 physicians provide more than 40 percent of the healthcare services delivered in the United States.

Our members face great difficulty understanding the criteria for avoiding e-prescribing penalties annually as each year the requirements, deadlines and timeframes for reporting have changed significantly. Additionally, CMS's approach to applying penalties in one year based on a prior year's reporting activity further complicates reporting and penalty schemas, causing confusion and unfair penalty determinations. **CMS should use its regulatory authority to change this approach going forward, and where penalties exist, they should be based on actual performance during the time period to which they are applied.**

MGMA supports reasonable and achievable incentive programs, and encourages CMS to implement policies that achieve the government's objectives without placing an undue administrative burden on physician practices. In an effort to develop and implement policies that improve the quality of care delivered to patients while reducing administrative inefficiencies, CMS should harmonize and simplify the various data reporting processes that exist across a variety of CMS quality reporting programs to improve efficiency and act as an additional incentive for participation. To achieve this goal, **MGMA urges CMS to deem all physicians that meet meaningful use requirements (and therefore e-prescribe and report clinical quality measures under that program) as also successfully meeting all e-prescribing and Physician Quality Reporting System (PQRS) requirements in each corresponding performance year.** Eligible professionals that successfully meet the meaningful use

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requirements should automatically avoid penalties for both e-prescribing and PQRS. CMS should make this regulatory change in the proposed fee schedule, if not sooner.

**Absent this change at this time, we urge CMS to take the following steps immediately:**

- **Extend the reporting and hardship exemption request deadlines to Dec. 31, 2012.** This will give practices the additional time they need to assess their providers' success in reporting for the first several months of 2012, when many practices were facing problems with claims rejections resulting from the transition to Version 5010, and stripped quality codes as a result of clearinghouse issues. This will also allow for sufficient time to educate practices so that they understand the new criteria and have a fair chance to successfully avoid the 2013 penalty. For example, the hardship exemption request deadline has changed in 2012 (from Nov. 8 to June 30), in addition to the hardship exemption categories themselves. It is important to note that nothing would preclude the agency from adjudicating hardship requests on a rolling basis upon receipt. The mutual advantage for CMS and EPs, would be increased certainty regarding the status of the exemption request earlier in the year and additional time to resolve any discrepancies.
- **Institute a formal appeals process for this program immediately that allows providers to contest both past and future CMS e-prescribing award, penalty and exemption decisions.** There are many issues that may arise which warrant an appeal, including quality codes that were stripped at the clearinghouse level through no fault of the provider. The lack of availability of timely feedback reports amplifies this problem as practices have no real way of assuring that they are getting the credit they deserve for reporting e-prescribing events in good faith. While we appreciate CMS announcing in late March that it is willing to work with providers "who have questions about e-prescribing payment adjustments and/or hardship exemption decisions" on a case by case basis, this language was unclear and caused a great deal of confusion. It also does not go far enough to allow for a true and formal appeals process to give providers recourse from the aforementioned situations that may have, and may continue to arise.
- **Allow batch submissions of e-prescribing hardship exemption requests.** While we appreciate CMS allowing practice administrators to submit hardship exemptions on behalf of their EPs for 2012, we strongly encourage CMS to also develop a process that permits a group practice administrator with multiple EPs who fall under the same e-prescribing hardship exemption category to complete a single hardship exemption application for multiple EPs at once. Implementing this recommendation will significantly streamline the hardship request process for practice administrators.
- **Provide timely feedback to providers and practices.** EPs and practices need to receive feedback regarding EP success with the program early and often so that they can monitor progress, and make adjustments where needed to correct issues that may be causing quality code rejections unbeknownst to the provider and practice at the time of claims submission. The recent availability of incomplete, interim feedback reports for 2011 reporting will not be sufficient for providers to make these determinations.

In conclusion, we remain concerned regarding the current deadline and logistics for reporting and applying for hardship exemptions from e-prescribing payment reductions. We strongly encourage CMS to quickly extend the June 30 deadline to Dec. 31, and to communicate these changes to the physician practice community. We thank you for the opportunity to provide feedback on this program. Should you have any questions, please direct them to Jennifer Martin, MGMA Government Affairs Representative at [jmartin@mgma.com](mailto:jmartin@mgma.com) or (202)-293-3450.

Sincerely,

A handwritten signature in black ink that reads "Susan Turney". The signature is written in a cursive, flowing style.

Susan Turney, MD, MS, FACP, FACMPE  
President and CEO