May 28, 2015

Andy Slavitt  
Acting Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD  21244

Comments Re: Medicare and Medicaid Programs; Electronic Health Record Incentive Program- Stage 3

Dear Mr. Slavitt:

The American Society of Cataract and Refractive Surgery (ASCRS) is a medical specialty society representing over 10,000 ophthalmologists in the United States and abroad who share a particular interest in cataract and refractive surgical care.

We appreciate the opportunity to express our views regarding the Medicare and Medicaid Programs; Electronic Health Record Incentive Program-Stage 3 proposed rule.

ASCRS does not support the majority of the changes in the Stage 3 proposed rule, specifically the higher thresholds providers must meet in many of the Stage 3 measures, and is disappointed that the changes in the proposed Stage 3 rule do not recognize the many issues, such as inappropriate measures not applicable to ophthalmology and unattainable thresholds, our members and other specialties have faced while attesting to Meaningful Use Stages 1 and 2.

ASCRS does, however, support the more recently released proposed rule Medicare and Medicaid Programs; Electronic Health Record Incentive Program-Modifications to Meaningful Use in 2015 through 2017. In this rule, CMS made many of the changes ASCRS advocated for, including lowering the patient electronic access measure requirement from 5 percent to one patient and changing the secure electronic access measure from 5 percent to having a fully functional electronic messaging system.

We believe it is counter intuitive to propose flexibility options for Meaningful Use attestation due to the recognition by CMS that providers are not able to meet current Meaningful Use measures and thresholds in one proposed rule, and then require higher thresholds and more difficult measures in the proposed rule for the next stage. We encourage CMS to more closely align the Stage 3 Rule with the Meaningful Use Flexibility proposed rule, and lower the Stage 3 proposed rule thresholds to those standards.

Delay Stage 3 Implementation Beyond 2018

While, ASCRS commends CMS for moving toward Stage 3 Meaningful Use that requires reporting on fewer measures and increased flexibility within each measure, we are concerned the measures and
thresholds CMS has chosen for Stage 3 Meaningful Use will be too difficult for providers to implement by 2018 and, therefore, we request a delay in implementation of Stage 3 Meaningful Use.

Many ASCRS members have either not yet attempted Stage 2 attestation, or have struggled with successfully attesting to Stage 2 Meaningful Use due to Stage 2 measures that are not related to ophthalmologists and the patients they treat and an older Medicare patient population that often does not have the ability to access a computer to complete the patient portal measures or any other measures that require patients accessing information via a computer. Providers need additional time to put in place the systems and workflows necessary to meet Stage 2 Meaningful Use before moving on to more onerous Stage 3 requirements.

Therefore, ASCRS recommends the timeline for beginning Stage 3 Meaningful Use be pushed back beyond 2018. CMS must ensure that a large percentage of eligible professionals are successfully attesting to Stage 2 before requiring that providers move on to Stage 3 requirements.

Reduce Measure Threshold Requirements

Currently, many ASCRS members have difficulty reaching the threshold requirements in Stage 2 Meaningful Use. As we have indicated above, many of the required measures are not appropriate for our specialty and our patient population tends to be older Medicare patients. These patients do not typically have access to or knowledge of a computer, which has a direct impact on our members’ ability to meet the requirements of several of these measures. Our members located in rural areas have difficulty meeting these measures as well, as many of their patients do not have access to a computer.

In addition, almost all measures in the proposed Stage 3 rule have increased threshold requirements over Stage 2 measures including: electronic prescribing, order entry, clinical decision support, secure electronic messaging, and transitions in care. Most of the percentages required to successfully attest for each measure have been increased by around 20 percent, a significant change from Meaningful Use Stage 2. Therefore, the increased requirements for Stage 3, if not altered, will make it nearly impossible for many of our members to successfully attest to Meaningful Use in the future.

Specifically, ASCRS is concerned about our members meeting the Patient Electronic Access to Health Information and the Coordination of Care through Patient Engagement objectives. ASCRS, along with other medical organizations, has worked to educate CMS regarding the difficulties our members have had with these two patient engagement measures in Stage 2 of Meaningful Use. When the Meaningful Use Flexibility proposed rule was issued, ASCRS was very supportive of CMS’ reduction of the patient electronic access requirement from 5 percent to one patient and the secure electronic access requirement from 5 percent to being functionally able to allow patients to send secure electronic messages. These changes will make it significantly more likely that ASCRS members may successfully attest to Meaningful Use Stage 2, and we encourage CMS to adopt similar requirements for Stage 3 Meaningful Use.

In the Stage 3 proposed rule, providers will have an option to choose between providing 80 percent of unique patients with the ability to view, download, and transmit their health information or providing the patient access to a certified application-program interface (API) for the patient electronic access objective. ASCRS appreciates CMS’ recognition that it is too difficult to require providers to be responsible for whether patients take action. We support that under this new measure, the provider is only required to provide access to information through these means, and the patient is not required to take action in order for the provider to meet this objective. ASCRS still feels, however, due to the
issues we have explained above, the threshold for this measure is too high. The types of information ophthalmologists provide patients does not lend itself to a patient portal as easily as information provided by primary care physicians. In addition, we routinely hear from our members that their patients have not chosen to access information in the patient portals they have established. Therefore, any measures that require providers to spend more time engaging patients via the patient portal do not make sense for ophthalmology.

ASCRS also has significant concerns with the new Coordination of Care through Patient Engagement objective. For this proposed Stage 3 objective, providers would have to attest to two of the three measures: 1) for more than 25 percent of all unique patients actively engage with the electronic health record made accessible by the provider by viewing downloading or transmitting their health information 2) for more than 35 percent of all unique patients a secure electronic message was sent to the patient from the provider 3) patient-generated health-data from a non-clinical setting is incorporated into EHR for more than 15 percent of all unique patients.

After acknowledging measures that require patient action are inappropriate and out of the providers control in relation to the patient electronic access measures, CMS has included a coordination of care measure, Measure 1, which requires patients to take action. As previously stated, it will be extremely difficult for many ASCRS members to have 25 percent of their patients actively engage with their electronic health record, since they have been unable to reach the 5 percent requirement of patients sending electronic messages in Stage 2. Ophthalmologists should not be penalized for treating older Medicare patients without the ability to engage electronically with their health information.

Furthermore, Measure 3, which requires providers to incorporate patient generated health data from a non-clinical setting for more than 15 percent of patients, will be extremely difficult for ASCRS members to meet. CMS lists examples of non-clinical data as data from providers such as nutritionists, physician therapists, occupational therapists, psychologists and home health care providers, as well as data from patients themselves regarding self-monitoring of health. For ophthalmologists, and specifically cataract surgeons, this information is not relevant to the services they provide their patients. Therefore, the Coordination of Care through Patient Engagement objective will be difficult, if not impossible, for our members to meet.

ASCRS believes that until the majority of providers are successfully attesting to Stage 2 Meaningful Use, thresholds for all Stage 3 measures should be changed to reflect the more easily attainable measures and thresholds contained in the Stage 2 Modifications proposed rule.

Offer Additional Flexibility and Shorten Stage 3 Reporting Period

As we have commented previously, ASCRS believes CMS needs to offer more flexibility for providers attempting to successfully attest to Meaningful Use. We support the proposal advocated by the American Medical Association (AMA) and other medical societies that would allow providers to successfully report Meaningful Use Stage 2 or 3 if they fulfilled at least 75 percent of the Stage 2 or 3 requirements.

ASCRS also believes that until most providers are successfully attesting to Stage 3 Meaningful Use, CMS should allow providers to attest for a calendar year quarter instead of a full year reporting period. We believe the first few years of Stage 3 Meaningful Use should be used to ensure providers understand the measures and can efficiently adopt these new requirements into their workflow. Adopting new measures and procedures may take time. Therefore, ASCRS recommends providers be
allowed to attest to a calendar year quarter instead of a full year of meaningful use for the foreseeable future.

While we appreciate efforts by CMS to increase flexibility for the EHR Incentive Program, the thresholds for meeting Stage 3 Meaningful Use remain too high and the measures proposed for Stage 3 are not relevant for ophthalmologists and the patients they treat. Many of our members have reported they will not be able to continue participating in the Meaningful Use program if the requirements are not simplified as they move on to Stage 3 of the program. CMS recognized providers were struggling to meet Meaningful Use in the Modifications to Meaningful Use 2015-2017 proposed rule and offered some flexibility to providers for difficult to meet measures. To reiterate, it is counterintuitive, after the publication of this Modification proposed rule, to increase the requirements of many measures in the proposed Stage 3 rule far beyond what is currently required. **ASCRS urges CMS to include the flexibility contained in the Modifications to Meaningful Use 2015-2017 Proposed Rule in Stage 3 Meaningful Use.** ASCRS has significant concerns our members will not be able to successfully attest to Stage 3 if the measures and thresholds in this proposed rule are finalized.

As we have stated previously, the majority of Meaningful Use measures, including those found in this proposed rule, are not relevant or applicable to specialists, making it extremely difficult for ophthalmologists to meet Meaningful Use. Furthermore, providers need more time to successfully implement Stage 2 Meaningful Use before they are required to move to Stage 3 and should only be required to meet Meaningful Use for a calendar year quarter for the first few years of Stage 3 reporting. We ask CMS to consider these comments as they move forward with the EHR Incentive Program.

Sincerely,

Robert Cionni, MD