



Sunshine Act Toolkit

What's Included?

1. [Sunshine Act Overview](#)
2. [Free OPEN PAYMENTS Mobile for Physicians App](#)
3. [Key Dates](#)
4. [Frequently Asked Questions](#)
5. [What to Tell Patients](#)
6. [CMS Resources](#)

Sunshine Act Overview

The Sunshine Act requires manufacturers of drugs, devices, biologicals or medical supplies covered by Medicare, Medicaid or the Children's Health Insurance Program to annually report to the Centers for Medicare and Medicaid Services (CMS) any payments or transfers of value of less than \$10 to physicians or teaching hospitals.

In addition, applicable manufacturers and applicable Group Purchasing Organizations (GPOs) are required to annually report certain physician ownership or investment interests.

Manufacturers and GPOs had to begin collecting and tracking this required data on August 1, 2013. Manufacturers must report 2013 data to CMS by March 31, 2014.

Physicians will have at least 45 days to challenge the reports once they are given access to their industry reports through an online physician portal. In order to challenge the reports, there are two steps that physicians must take.

- **First**, physicians and teaching hospitals will need to [register in CMS' Enterprise Portal](#) (the gateway to the CMS Enterprise Management System). This is considered Phase 1, and **physicians were able to register for the portal as of June 1.**
- **Phase 2 begins in July**, and requires a second stage of registration in the Open Payments system. **This second stage of registration will allow physicians to review and dispute the data submitted by industry.**

CMS will publish the manufacturers' and GPOs' submitted payment and ownership information on a public website **on September 30, 2014**. If any disputes have not been resolved, the data will be published and flagged as contested information.

For additional information, check out our resources below.

Free OPEN PAYMENTS Mobile for Physicians & Open Payments Mobile for Industry

CMS developed two mobile apps that can be used by physicians, applicable manufactures, and applicable GPOs to track payments and other transfers of value made during the year. These apps will not interact with the CMS system but are designed to assist physicians and manufactures with personal information collection and storage.

The OPEN PAYMENTS Mobile for Physicians is targeted specifically for physicians. The app also applies to specialty physicians. The app icon is below:



Even though physicians themselves are not required to report data, this app is designed to help physicians track and ensure accuracy of information on their financial relationships that will be reported by industry.

One of the benefits of these apps is that they allow information to be shared between the two apps. Both profile information and the details of events surrounding payments or transfers of value can be transmitted between apps.

The physician app is supported for the iPhone (iOS 6.0 or higher) and Android-based phones (2.3.3 or higher).

For more information, visit [CMS's FAQs for OPEN PAYMENTS](#).

Key Dates

- **August 1, 2013 to December 31, 2013:** Manufacturers were required to begin collecting and tracking payment, transfer and ownership information. They are required to report for the full calendar year starting in 2014.
- **March 31, 2014:** Deadline for Manufacturers to report 2013 data to CMS.
- **June 1, 2014:** Physicians can [register for Phase 1](#), which will allow them to register in the CMS Enterprise Portal.
- **July, 2014:** Physicians will be able to [register for Phase 2](#), a second stage of registration in the Open Payments system that will allow physicians to review and dispute the data submitted by industry.
- **September 30, 2014 and June 30 in future years:** Publication of reports and available to the public.

Physician Payment Sunshine Act Frequently Asked Questions

Who reports payments made to covered recipients?

Applicable Group Purchasing Organizations (GPO) and applicable manufacturers must report payments to covered recipients.

Who is a covered recipient?

Doctors of medicine and osteopathy, dentists, podiatrists, optometrists and chiropractors who are legally authorized to practice by the State in which they practice. This applies regardless of whether the provider is enrolled in Medicare and as long as the physician has a current license to practice.

Medical residents, non-physician providers such as nurse practitioners and bona-fide employees of the applicable manufacturer are not covered.

When will manufacturers begin collecting and reporting data?

Manufacturers were required to begin collecting and tracking payment, transfer and ownership information on August 1, 2013. By March 31, 2014 manufacturers were to report 2013 data to CMS.

What type of information must be reported?

Manufacturers must report payments, transfers of items that have value and ownership interests that are made directly to physicians and teaching hospitals.

Manufacturers must categorize how the recipient received the payment:

- Cash or a cash equivalent
- In-kind items or services
- Stock, a stock option or any other ownership interest, dividend, profit or other return on investment

There are 14 possible categories manufacturers are required to use to describe the nature of payment or transfer of value:

- Consulting fees
- Compensation for serving as faculty or as a speaker for an accredited and certified medical education program (CME)
- Compensation for serving as faculty or as a speaker for a non-accredited and non-certified medical education program
- Honoraria
- Gift
- Entertainment
- Food and beverage *
- Travel (including the specified destinations)
- Education
- Research***
- Charitable contribution
- Royalty or license
- Current or prospective ownership of investment interest
- Grant

*The per-person value of a meal is calculated based on covered recipients that actually partake in the food or beverages provided.

***The ACA allows for delays in publication of payments/transfer of value for designated research related to the development of a new product or application to protect confidential, proprietary activities.

Manufacturers must report on ownership interests held by physicians and their immediate family members. The report must include the dollar amount invested, the value and terms of ownership, and any payment provided to physician owner or investor.

What information is exempt from being reported?

- Payments or other transfers of value less than \$10 except when the total annual value of payments or other transfers of value provided to a covered recipient exceeds \$100
- Small incidental items (e.g., pens or notepads) that are under \$10 that are provided at large scale conferences and similar large scale events are excluded from aggregate tracking and reporting
- Educational materials that directly benefit patients or are intended for patient use

- Payments or other transfers of value provided to a third party (e.g., physician professional organization) that are distributed to a covered recipient, but the applicable manufacturer or GPO does not “require, instruct, direct or otherwise cause” the third party to provide the payment to a covered recipient
- Payments or other transfers of value provided as compensation to a speaker of an accredited or certified continuing education provider event supported by an applicable manufacturer
- Attendees at an accredited or certified continuing education event whose fees have been subsidized through the CME organization by an applicable manufacturer
- Buffet meals, snacks, soft drinks, or coffee made generally available to all participants of a large-scale conference or similar large-scale event
- Discounts, including rebates
- In-kind items for the provision of charity care
- Product samples
- Short-term loan of covered device (no more than 90 days)

What types of financial transfers are covered?

Any direct payments or transfer of value are covered (except for those exceptions listed above). Third party transfers where a physician specifies that a transfer or payment should be given to another person or entity are also reportable. Indirect payments where a manufacturer makes a payment to a third party such as a physician organization and then instructs the payment or transfer of value to be provided to specific physicians are also covered.

Certain ownership interests such as securities which 1) may be purchased on terms generally available to the public, 2) are listed on a stock exchange and 3) have quotations that are published on a daily basis are not reportable.

What will be done with the information after it is collected?

The majority of the information contained in the transparency reports will be made available on a public, searchable website.

How will I find out what my transparency report will say?

CMS will allow physicians to sign up to receive notice of when their report is available through the physician portal. The physician portal will allow you to check your consolidated report at the end of the annual reporting period.

By statute, physicians are provided, at a minimum, 45 days to review their consolidated transparency report and make corrections before the report is made public.

What do I do if the information on my transparency report is wrong?

Physicians will have at least 45 days to challenge reports once CMS provides access to physicians’ transparency reports through the online physician portal.

The portal allows physicians to contact manufacturers or GPOs to challenge misleading, inaccurate, or false information in order to resolve disputed submissions.

If a physician and manufacturer or GPO cannot resolve the dispute, they are given 15 additional days to try to achieve resolution. If the dispute is still not resolved, the contested information will be marked as disputed and posted on the public webpage CMS develops for all transparency reports.

Physicians have additional time, cumulatively two years, to dispute reports even after the reports are made public.

What can I do to prepare?

To prepare, you should update your disclosures regularly, including financial disclosures and conflict of interest disclosures.

If you have an NPI, update the information and ensure your specialty is correctly designated. Physicians who have an NPI should ensure all information in the NPI enumerator database is current and regularly updated as needed. This information will be used by industry to make sure they have correctly identified you.

Inform your contacts that you want ongoing notice of what they are reporting to the government. Ask all manufacturers and GPOs with whom you interact to provide you with notice and an opportunity to review the information they plan to report before it is submitted to the federal government.

How do I register to review my information?

There are two steps that physicians must take in order to review the information about payments or other transfers of value given to them by industry. First, physicians and teaching hospitals will need to register in CMS' Enterprise Portal (the gateway to the CMS Enterprise Management System). This is considered Phase 1, and **physicians were able to register for the portal as of June 1**. Phase 2 begins in July, and requires a second stage of registration in the Open Payments system. **This second stage of registration will allow physicians to review and dispute the data submitted by industry.**

For assistance registering for Phase 1 and Phase 2 please view [CMS' presentation on steps to complete registration](#). For more information, [view CMS' Open Payments webpage](#).

What to Tell Patients

After Open Payments becomes public, your patients may want to know about the financial interactions you have had with industry. When a patient asks about this topic, you should make sure you provide the patient with the information they are seeking without compromising trust or the patient-physician relationship. You may want to inform the patients of your medical research projects, what sources you rely on for information about medical innovations and new evidence, and how you believe your relationships with industry will improve your treatment of and relationship with patients.

CMS Resources

[Physician Portal](#): CMS is required to provide information on the annual reports to physicians before the reports are made public. Physicians will have at least 45 days once CMS provides access to individual physicians' industry reports to challenge reports through an [online portal](#). Physicians can register for this online portal beginning June 1, 2014.

[Public Webpage](#): CMS is required to provide most of the information contained in the transparency report in a public webpage. Publication of this webpage is targeted for September 2014. When the link is available, it will be posted here.