

March 11, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Julie Su
Acting Secretary
U. S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Dear Secretary Becerra and Acting Secretary Su:

On behalf of the physician and medical student members of the American Medical Association (AMA), **I appreciate the steps that the Biden Administration has taken to address the Change Healthcare cybersecurity incident, including the [statement](#) from the Centers for Medicare & Medicaid Services (CMS) on March 9, 2024, about the creation of the Change Healthcare/Optum Payment Disruption (CHOPD) Accelerated Payments to Part A Providers and Advance Payments to Part B Suppliers.** Although the repayment terms may prove more challenging for physician practices than those provided during the pandemic, we anticipate that CHOPD Advance Payments will be helpful for physician practices that have seen their cash flow dry up as a result of the cyberattack and are at risk of not meeting their obligations, including paying their staff, to continue to care for patients. The AMA was also pleased with the letter to health care leaders that Secretary Becerra and Acting Secretary Su sent on March 10, 2024.

We urge the Department of Health and Human Services (HHS), the Department of Labor (DOL), and all health care system partners to take an “all hands on deck” approach and build upon CHOPD by using all regulatory flexibilities **to continue supporting physicians and tackle this enormous interruption in day-to-day physician practice operations that has impeded physicians’ ability to care for patients.**

Moreover, the AMA asks that the Department address these additional concerns that we are hearing from physicians:

- **Create an inventory of all the health plans that are currently offering advance payments.**

Physicians need an up-to-date database that compiles all the payers that are offering advance payments to physicians. The AMA offers to help HHS promote such a database and ensure that physicians understand where to reach out to seek advance payments.

- **Ensure all Medicare Administrative Contractors (MACs) and health plans are accepting paper claims.**

HHS should encourage all MACs and health plans to accept paper claims so that practices have options for restarting their revenue flow. Practices unable to use other clearinghouses or workarounds have been unable to submit claims for two weeks, which is simply an untenable and financially unsustainable situation. AMA is hearing reports that despite CMS instructions, some MACs are still requiring a waiver to accept paper claims. CMS should ensure that MACs allow paper claims without waivers.

- **Provide more specifics and support for physicians requesting expedited electronic data interchange (EDI) enrollment to switch claims processing clearinghouses.**

Physician practices are over-burdened under these exceptional circumstances and will need significant guidance and direction on how to undertake a new EDI enrollment process, particularly at small, safety net,

rural, and other less-resourced practices that often serve underserved patient communities. Also, what should practices' expectations be for an "expedited" enrollment process?

- **Automatically apply hardship exemptions for CMS-impacted programs.**

The 2023 Merit-based Incentive Payment System (MIPS) data submission window closes on April 1. Due to the Change Healthcare cybersecurity breach, we are concerned that many practices will not have the resources to expend on MIPS data submission and therefore will be subject to a -9 percent penalty. The AMA strongly believes that CMS should automatically apply the Extreme and Uncontrollable Circumstances Hardship exception to all MIPS eligible clinicians for the 2023 performance year.

- **Waive timely filing deadlines for claims and appeals.**

Many health plans enforce deadlines for timely filing of claims based on the date of service. Given the extensive challenges with claim submission resulting from the Change Healthcare outage, we request that CMS encourage all health plans to waive timely claim filing requirements. Similarly, any time limitations on filing of appeals should be waived.

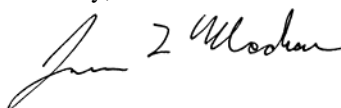
- **Encourage the health information technology community to postpone user fees.**

Considering the unprecedented financial strain faced by physician practices across the nation, HHS should urge federally certified electronic health record (EHR) developers to postpone service and user fees on impacted physician practices. Monthly reoccurring EHR fees can run tens of thousands of dollars. Medical practices are concerned their EHRs will be disabled and physicians will be cut off from electronic patient records if fees are not paid on time. EHR developers can play a crucial role in alleviating the financial burden on physicians, ensuring the continuation of essential medical services without interruption.

The AMA thanks HHS for CHOPD Advance Payments for Part B Suppliers. We appreciate any additional assistance that HHS and DOL can provide directly to physicians and where opportunities exist for the Departments to encourage health plans to undertake actions for relief and support of physicians as they care for patients. The Biden administration has a critical leadership role to play during this crisis, and the AMA stands ready to work with the administration and other partners to ensure that we emerge from this extraordinary time with a high-functioning, patient-centric health care system.

If you have any questions or need any additional information, please do not hesitate to contact Margaret Garikes, Vice President of Federal Affairs, at margaret.garikes@ama-assn.org.

Sincerely,



James L. Madara, MD

cc: The Honorable Chiquita Brooks-LaSure