May 28, 2015

Andrew M. Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

Dr. Karen DeSalvo
National Coordinator
Office of National Coordinator for Health IT
Department of Health and Human Services
200 Independence Ave, S.W.
Washington, D.C. 20201
[Submitted electronically]


Dear Mr. Slavitt and Dr. DeSalvo:

On behalf of our 126 member hospitals, the Kansas Hospital Association (KHA) appreciates the opportunity to respond to the Request for Comments on the Medicare and Medicaid Programs; 2015 Edition Health Information Technology Certification Criteria, 2015 Edition Base EHR Definition, and ONC Health IT Certification Program Modifications published on March 30 (Federal Register, DOC #: 2015-06612).

Overall, the KHA is concerned that the 2015 Edition Certification Criteria includes immature standards. Experience to date indicates that such immature standards create implementation challenges for providers and create barriers to meeting program requirements within the program timeframe.

The focus of the 2015 Edition Certification Criteria is on facilitating greater interoperability for clinical health purposes and enabling health information exchange through new and enhanced certification criteria, standards and implementation specifications.

Part of the new certification criteria includes external application access to a patient’s data through a publicly available Application Programming Interface (API) and assessment of patient summary creation performance. The Application Access to Common Clinical Data Set would require the demonstration of an API that responds to data
requests for any one of the data referenced in the Common Clinical Data Set. The use of APIs holds promise, but we lack evidence on the readiness of the approach in any clinical setting. We also lack insight on the number of different EHR vendors engaged in the API standards development work. Experience indicates that there is a distinction between a draft standard for trial use and a mature standard with implementation specificity that providers can expect vendors to adhere to. Stakeholders are working to develop a standard and implementation specifications for APIs that would be used by EHR vendors, and ONC should continue to collaborate with CMS on these and other efforts to develop mature standards that may be able to support health information exchange requirements. The development, testing and trial use of a standard used in technology should precede the standard’s inclusion and use in federal regulation.

Additionally, new technology approaches that engage third parties in the exchange of data between patients and providers must be supported within the context of the existing HIPAA framework. Third parties, including developers of applications that receive, aggregate and transmit data must be covered by the same HIPAA requirements as other business associates of providers. Finally, we have significant concerns that the introduction of APIs could introduce security risks to providers’ health information systems. Hospitals are part of the nation’s critical infrastructure and are responsible for keeping systems as secure as possible. They must proceed carefully when introducing new technologies that touch their system. While the KHA supports the concept of using APIs to share data, it is premature to require their use by providers in meaningful use because of the lack of standards maturity, the security risks they pose and the significant policy questions that must be addressed.

The KHA appreciates the provisions that ONC proposes to change, modify and improve the certification program, particularly improvement of surveillance of the product in the field and greater requirements of vendors to report fees to use certified EHRs. The KHA encourages the ONC to finalize these proposals to increase disclosure, testing and surveillance on the part of vendors.

Kansas hospitals are committed to moving toward an e-enabled health care system to improve patient care and safety and achieve national goals for improved health. Thank you for the opportunity to share our concerns and comments.

Sincerely,

Tom Bell
President and CEO