



## Health Record Banking Alliance

From: William Yasnoff, MD, PhD, President, Health Record Banking Alliance

To: Regulations.Gov Website at <http://www.regulations.gov/search/Regs/home.html#home>

Date: March 12, 2010

RE: Comments on: *Medicare and Medicaid Programs; Electronic Health Record Incentive Program; Proposed Rule*

### COMMENT:

The Health Record Banking Alliance (HRBA) is a membership organization whose goals are to promote community repositories as an effective and sustainable solution for electronic health information, provide assistance to communities building health record banks, and promote necessary legislation & regulation consistent with community health record banks (see <http://www.healthbanking.org>). HRBA members include state and community health information exchange organizations, health information providers, physicians, and vendors interested in health information technology, exchange and services.

After a review of the *Medicare and Medicaid Programs; Electronic Health Record Incentive Program; Proposed Rule*, we have specific concerns about whether rule the will make standardized electronic records sufficiently available to patients for download/transfer to other systems such as health record banks. The changes we propose will strengthen the ability for patients to access and share their health information with physicians, hospitals and others they visit on a timely basis, and improve ability to protect patients in emergencies.

Specifically, on page 1994, section §495.6 we propose modifications in {brackets}, followed by a rationale for the modifications.

- (5)(i) *Objective*. Provide patients {or their designee} with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, and allergies) {in CDA format} upon request.
- (ii) *Measure*. At least 80 percent of all patient requests for an electronic copy

of their health information are provided  
{as soon as practicable but in no  
case more than 48 hours in HL7 CDA format}.

(6)(i) *Objective*. Provide patients {or their designee} with timely electronic access to their health information (including diagnostic test results, problem list, medication lists, and allergies) {in HL7 CDA format as soon as practicable but in no case more than} 96 hours of the information being available to the EP

(ii) *Measure*. At least 10 percent of all unique patients seen by the EP are provided timely electronic access to their health information.

(e) *Additional Stage 1 criteria for eligible hospitals or CAHs*.

(3)(i) *Objective*. Provide patients {or their designee} with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, allergies, discharge summary, and procedures), in {HL7 CDA format} upon request.

(ii) *Measure*. At least 80 percent of all patient requests for an electronic copy of their health information are provided {as soon as practicable but in no case more} than 48 hours in {HL7 CDA format}.

The rationale for these modifications is as follows.

**Rationale:** Patients (or designees on their behalf) using health record bank or personal health record (PHR) accounts will require electronic information updates as quickly as possible so that they have accurate records in the event they are visiting another physician or medical service provider, or have an emergency. Addition of the term “as soon as practicable” is proposed to assure that providers provide electronic information as quickly as feasible based on their available technology. Addition of the term “in HL7 CDA format” is proposed to assure that the patient information will be provided in a standard format capable of being imported into a electronic health record banking or PHR account.

Thank you for your consideration.