

September 6, 2013

Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1600-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

Dear Administrator Tavenner:

We the undersigned pathology organizations represent 48 state pathology societies and 10 national pathology organizations. We write to you to comment on the Physician Quality Reporting System (PQRS) and Value-Based Modifier (VBM) provisions of the proposed rule, "Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule & Other Revisions to Part B for CY 2014," (CMS-1600-P) as published in the *Federal Register* on July 19, 2013.

In the 2013 PQRS program, pathologists may report on five quality measures. We wish to thank the Agency for proposing to include those measures in the 2014 measure set. However, we are very concerned that many pathologists have no applicable PQRS measures. We understand that the College of American Pathologists (CAP) proposed three new PQRS measures for 2014, but they were not included in the proposed rule.

**We ask CMS to reconsider including the three CAP-proposed pathology quality measures, as they would enable some pathologists who currently have no measures to participate in PQRS. Further, we ask that CMS not penalize those pathologists who will still have no measures, even if the three proposed measures are added.**

#### **CAP Cancer Care Quality Measures**

Pathology is committed to improving the quality of cancer care in the US by reducing the burden of disease and increasing the survival rate for cancer patients. To meet this objective and at the request of the National Quality Forum's Cancer Quality Measures Project Steering Committee, the CAP developed three evidence-based quality measures for lung and skin cancer that could be used to assess cancer care quality.

These performance measures address key processes of care and have a strong evidentiary base for improving patient outcomes. Importantly, they are used for staging cancers and for determining appropriate care, information that is not currently captured in claims data. Given the lack of robust performance measures for improving cancer care in the US, we strongly encourage the Centers for Medicare & Medicaid Services (CMS) to incorporate these measures into the Physician Reporting Quality System.

#### **PQRS Measures for Pathologists**

While participation in the PQRS by pathologists *with applicable measures* is relatively high (61.5% of 7,722 eligible pathologists in 2010, and 63.2% of 7,636 eligible pathologists in 2011), there are still no applicable measures for over half of the 18,000 Board-certified pathologists practicing in the United States.

We recommend that CMS create pathways for more pathologists to participate in PQRS. We understand that the CAP submitted three new pathology measures to CMS for its consideration for inclusion in the 2014 PQRS measure set:

- Proposed New Measure #1 – Lung cancer reporting (biopsy/cytology specimens)
- Proposed New Measure #2 – Lung cancer reporting (resection specimens)
- Proposed New Measure #3 – Melanoma reporting.

These measures would increase the opportunity for pathologists to participate in the PQRS, particularly cytopathologists and dermatopathologists who to date have no applicable measures.

These measures follow evidence-based guidelines developed by International Association for the Study of Lung Cancer, American Thoracic Society, and European Respiratory Society (Measure #1); by the American Joint Committee on Cancer (AJCC) and the International Union Against Cancer (UICC) (Measure #2); and by the AJCC (Measure #3). Further, the Cancer Committee of the National Quality Forum requested that the CAP propose these measures. Given that over half of pathologists have no applicable quality measures, we ask that CMS reconsider the CAP's request and include these three measures in the 2014 PQRS program.

#### **CMS Should Not Penalize Pathologists Who Have No Measures**

In 2014, pathologists who have no applicable quality measures will face a total penalty of four percent of their Medicare fee schedule payments. Those penalties result from a two percent penalty for failing to report PQRS measures, and an additional two percent penalty for being unable to avoid penalties from the value-based modifier (VBM.) Further, as CMS has proposed drastic cuts for many commonly performed pathology services paid on the physician fee schedule, these penalties would only make matters worse for those pathologists who have no applicable measures. Cytopathologists, dermatopathologists, clinical pathologists, and oral and maxillofacial pathologists, in particular, would be particularly affected by the penalties since they currently have no PQRS measures.

We urge the Agency not to impose penalties on pathologists who do not report measures because none are applicable to them. Additionally, CMS should maintain the Administrative reporting option in 2014.

Thank you for your consideration.

Regards,

Alabama Association of Pathologists  
Arizona Society of Pathologists  
Arkansas Society of Pathologists  
California Society of Pathologists  
Colorado Society of Clinical Pathologists  
Connecticut Society of Pathologists  
Delaware Pathology Society  
Florida Society of Pathologists  
Georgia Association of Pathologists  
Hawaii Society of Pathologists  
Idaho Society of Pathologists  
Illinois Society of Pathologists  
Indiana Association of Pathologists

Iowa Association of Pathologists  
Kansas Society of Pathologists  
Kentucky Society of Pathologists  
Louisiana Pathology Society  
Maine Pathology Society  
Maryland Society of Pathologists  
Massachusetts Society of Pathologists  
Michigan Society of Pathologists  
Minnesota Society of Pathologists  
Mississippi Association of Pathologists  
Missouri Society of Pathologists  
Montana State Pathology Society  
Nebraska Association of Pathologists  
Nevada Society of Pathologists  
New Hampshire Society of Pathologists  
New Jersey Society of Pathologists  
New Mexico Society of Pathologists  
New York State Society of Pathologists  
North Carolina Society of Pathologists  
Ohio Society of Pathologists  
Oklahoma State Association of Pathologists  
Oregon Pathologists Association  
Pennsylvania Association of Pathologists  
Rhode Island Society of Pathologists  
South Carolina Society of Pathologists  
South Dakota Society of Pathologists  
Tennessee Society of Pathologists  
Texas Society of Pathologists, Inc.  
Utah Society of Pathologists  
Vermont Society of Pathologists  
Virginia Society of Pathologists  
West Virginia Association of Pathologists  
Washington State Society of Pathologists  
Wisconsin Society of Pathologists, Inc.  
Wyoming Society of Pathologists

American Academy of Oral and Maxillofacial Pathology  
American Pathology Foundation  
American Society for Clinical Pathology  
American Society of Cytopathology  
American Society of Dermatopathology  
Association for Molecular Pathology  
Association of Directors of Anatomic and Surgical Pathology  
Association of Pathology Chairs  
College of American Pathologists  
National Association of Medical Examiners