



October 7, 2020

Seema Verma
Administrator
The Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Verma,

On behalf of the nation's Medicaid Directors, NAMD is writing to request an extension of the discretionary enforcement period for the Interoperability and Patient Access regulation by, at minimum, one additional year, with further flexibilities offered contingent on state good faith effort to work towards compliance. As states grapple with the impact of COVID-19 on state general fund revenues, there is growing concern that this rule's implementation timelines will create significant strain on already limited Medicaid budgets, as well as state information technology staff and the Medicaid provider community. While we remain supportive of the rule's overall objectives, the reality of state budget situations requires adjustment in its compliance dates.

COVID-19's impact on state economies is significant and ongoing. As states plan for steep declines in general revenues in the next fiscal year, Medicaid programs are developing budget scenarios to reflect this new reality. In this environment of across-the-board state belt tightening, we encourage our federal partners to minimize imposition of new costs on states. Unfortunately, the interoperability rule's requirements for state development of an Application Programming Interface (API) to facilitate sharing of Medicaid claims data and provider directory information with third parties and payer-to-payer data exchanges does exactly this.

As we noted in [our 2019 comments on the interoperability rule](#) as proposed, state experience with Medicaid IT projects indicates such projects can often prove time-consuming and resource intensive. We fully anticipate that activities associated with the interoperability rule will follow that pattern. Indeed, the tight implementation period for the rule's API requirements – initially set for January 1, 2021 and delayed to July 1, 2021 after [CMS's welcome announcement of a discretionary enforcement period](#) due to COVID – all but guarantees implementation will be costly. The pool of Medicaid IT vendors with the expertise and capacity to meet the API requirements with less than nine months of implementation time is small and the majority of states will be seeking their services. Consequently, the costs of procuring vendor support in this area are significant.

This challenge is exacerbated by state IT staff already being tasked with major initiatives, such as data quality improvement activities under the Transformed Medicaid Statistical Information System (T-MSIS) or managing modular Medicaid Management Information System (MMIS) procurements. Adding on the interoperability rule's requirements on top of these existing efforts stretches state staff resources extremely thin. This holds true both for Medicaid IT staff directly, as well as statewide IT staff in states where such functions are shared across multiple agencies. Further, the activities required by the rule may not align with significant state IT projects already under way, creating additional challenges for the

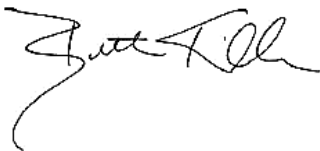
design and implementation of the rule's requirements. Contractor support would be almost mandatory, but as noted above, such support will create significant costs for states and the federal government.

Lastly, should CMS decline to offer additional flexibility to states on interoperability implementation timelines, the agency would appear to place itself out of alignment with actions being considered by the Office of the National Coordinator (ONC), which issued its own rule complementing CMS's interoperability rule. In mid-September, [the Office of Management and Budget indicated its intention to review a proposed ONC rule](#) seeking extension of ONC compliance dates and timeframes in response to COVID-19. This is an encouraging sign from ONC that reflects provider concerns around meeting compliance targets in its rulemaking. We encourage CMS to do the same for state Medicaid programs.

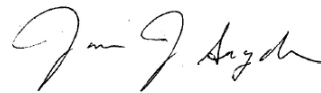
In light of these concerns, we strongly reiterate our [request made in our May 2020 letter to CMS](#) seeking an additional compliance time for the interoperability rule. We now anticipate at least one additional year is needed for states to conduct necessary implementation activities. An extension will give states additional planning time, ease demand for a limited pool of Medicaid IT contractors, and demonstrate CMS's understanding of the fragile state budget situations created by COVID. Given the complex nature of Medicaid systems projects, further targeted flexibilities on implementation timelines may be necessary after a year extension. Such flexibilities should be offered on a state-by-state basis depending on the state's demonstrated planning and good-faith implementation efforts at that time.

NAMD and our members stand ready to continue conversations about how to effectively meet the rule's objectives in a manner that is sustainable for states.

Sincerely,



Beth Kidder
President, NAMD
Deputy Secretary for Medicaid
Florida Agency for Health Care Administration



Jami Snyder
President-elect, NAMD
Director
Arizona Health Care Cost Containment System