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Advocacy Suggests that the Centers for Medicare and Medicaid Services Take Health Care Providers Concerns into Account During Promulgation of Electronic Health Record Incentive Rule

On March 15, 2010, the Office of Advocacy (Advocacy) filed comments with the Centers for Medicare and Medicaid Services (CMS) providing the agency with various health care providers' concerns with the electronic health record (EHR) proposed rule. A copy of Advocacy's letter may be accessed at <http://www.sba.gov/advo/laws/comments>.

- On January 13, 2010 CMS published in the *Federal Register* the Medicare and Medicaid Program; Electronic Health Record Incentive Program proposed rule. (75 Fed. Reg. 1844). While Advocacy commended CMS for performing an Initial Regulatory Flexibility Analysis, Advocacy filed comments that provided CMS with the concerns of affected physicians and clinical laboratories.
- Advocacy was told by affected health organizations such as the American Medical Association and the College of American Pathologists that they supported the public policy designed to incentivize health practitioners to effectively utilize electronic health records. These organizations believe that the rule should be modified in such a way as to minimize certain unintended consequences of the legislation that instructed CMS to propose the rule, the American Recovery and Reinvestment Act of 2009. With these suggested modifications the stakeholders believe that the rule would be improved and that associated economic impacts would be reduced.
- While Advocacy's suggestions were rather technical in nature, the comments were designed to encourage CMS to make certain changes to the rule's definitions, regulatory requirements and penalty provisions that would lessen the aforementioned economic burden on affected health care providers. The comments were also designed to make it easier for small physicians' offices and laboratories owned by pathologists that are located in hospitals to adopt the use of EHR, and to make it easier for hospital software systems to communicate with one another.

For more information, visit Advocacy's web page at www.sba.gov/advo or contact Linwood Rayford at (202) 205-6533.