



# Wisconsin Medical Society

October 1, 2013

Mandy Cohen, MD, Senior Advisor to the Administrator  
Centers for Medicare & Medicaid Services  
Hubert H. Humphrey Bldg., Room 341D-07  
Mail Stop 352G  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Dr. Cohen:

I hope that you are well. On behalf of physicians across the state of Wisconsin, the Wisconsin Medical Society respectfully asks the Centers for Medicare & Medicaid Services (CMS) to reconsider a worrisome provision in the recent regulations governing Qualified Health Plans and Federally-facilitated Exchanges (45 CFR Parts 155, 156, and 157). Our specific concern relates to the grace period allowance for exchange plan enrollees. If this provision is not corrected, we fear that hospitals and physicians in Wisconsin (and indeed across the country) will decline to participate in qualified exchange health plans.

The current rules require qualified exchange health plans to grant certain individuals a 90-day grace period during which their coverage cannot be terminated for failure to pay premiums. The plans are required to pay all claims during the first 30 days of that grace period, but are allowed to pend and deny any claims during the remaining 60 days if the coverage is ultimately terminated. This process unduly burdens physicians, hospitals and other health care providers with a double whammy: First, they provide the care. Then, they bear the burden of having to collect private payment from the patient for care rendered during the final 60 days of the grace period if the patient fails to pay his/her premium, or shoulder the unfair and significant risk for providing uncompensated care. This dual burden simply is not fair.

Recognizing that pended claims in the extended clemency would place a heavy burden of uncertainty on the provider community; CMS initially proposed that health plans be required to pay all appropriate claims during the entire grace period. And we fully supported that provision. But the final rules were amended, leaving the providers without adequate protection. The rules do require the plans to notify providers when patients have entered the grace period, but that notification only has to be made "as soon as practicable," an undefined standard that is subject to wide interpretation by the health plans. At a minimum, a more specific and timely reporting mechanism must be mandated.

We strongly urge you to make the notification process accessible whenever a provider needs to inquire, and to make it consistent with the current “real-time” standards for electronic HIPAA verification transactions (X12N 270/271), which generally require health plans to transmit eligibility information within 20 seconds. We specifically ask that you make the “real-time” standard a mandated requirement for all qualified insurers offering qualified health plans on the new Health Insurance Marketplace. We believe this is a reasonable request and stop-gap solution that CMS could implement before the new Marketplace begins coverage on *1/1/2014*. We also ask that CMS look to restore the original provision and require the plans to pay claims during the entire grace period. While that restoration is being promulgated, we believe it is a must to have the “real-time” standard as a mandated requirement.

Physicians, hospitals and other health care providers cannot reasonably be expected to know or predict if an enrollee’s premiums are paid or will be paid before the end of the grace period. And they cannot reasonably be expected to bear the concomitant burden of uncertainty and a potentially significant financial loss. If the current rules cannot be amended or interpreted in a more equitable manner, we fear there will be a widespread reluctance among physicians and other providers to participate in exchange plans. As a result, many patients — especially those in under-served areas — will find it very difficult to find physicians and other providers willing and able to provide their care.

Thank you for the opportunity to comment, and thank you for your consideration.

Sincerely,

William R. Abrams  
Chief Executive Officer