



May 1, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Becerra:

On behalf of the American College of Physicians (ACP), I am writing to express our continued concerns



clearinghouses have significantly increased their transfer costs, and physicians have also encountered difficulties integrating these clearinghouses into their existing electronic health record (EHR) systems. At the same time, physicians and health plans are understandably hesitant to reconnect to Change Healthcare's systems after the cyberattack due to a lack of trust, further exacerbating the situation.

ACP believes that HHS must continue to alleviate the burden on physicians and provide short-term relief. First, we understand physicians in smaller and more rural practices have not received adequate messaging on the cyberattack and follow-up actions. **We recommend that HHS take additional action through direct mailings, phone calls, and fax messages to communicate with smaller and more rural practices.** Many of the resources and information that HHS has shared have been incredibly valuable, and we want to ensure that all physicians are aware of these resources. ACP strongly recommends that HHS work with national and state medical societies and partners to ensure that physicians promptly receive and can inquire about these resources. Smaller and more rural practices often do not have access to the same resources as larger health systems. HHS must leverage the connection between physicians, medical societies, and partners to distribute resources and other information more effectively.

Last month, CMS extended the data submission deadline and reopened the 2023 Merit-based Incentive Payment System (MIPS) Extreme and Uncontrollable Circumstances (EUC) Exception Application to provide relief to eligible physicians and other clinicians impacted by the Change Healthcare cybersecurity incident. Extending these deadlines into April was essential for eligible physicians, and **we strongly urge HHS to ensure that impacted physicians in MIPS are not unfairly penalized throughout this entire performance year.** Even though Change Healthcare's systems are gradually returning to operational status, system outages have persisted for two months, and some systems still are not fully restored. Physicians will feel the effects of this for many months to come.



determine if additional allocations are needed. The repayment timeframes are also problematic as most physicians will not have adequate cash flow to return payments within 30 days after standard operations resume. Health plans should be aware of these cash flow disruptions, and their flexibility during this time is essential to getting physicians back on schedule. **Additionally, ACP recommends supplemental advanced payments to physicians through traditional Medicare and private payers.** The current payments primarily address providing direct patient care, but practices routinely incur costs for clinical staff, resources, and other expenses. The lack of these actions and delays in reimbursement will lead to a significant decrease in the number of physicians able to provide care, elimination of staff, and use of personal funds to keep practices operational.

In addition to the continued concerns about cashflow disruptions and access to care, ACP is incredibly disturbed by reports that UnitedHealth Group has used this recent cyberattack to take advantage of practices that are struggling financially by buying them out and expediting mergers with UnitedHealth Group. Due to the attack against its systems, practices have been financially distressed. ACP believes it is a predatory practice for UnitedHealth Group to acquire practices vulnerable to its own cyberattack. **We urge HHS to investigate these predatory practices** and take any corrective or adverse action where appropriate. HHS should also leverage its partnerships with states as additional agencies begin to examine UnitedHealth Group's behavior.

As HHS continues to work with physician partners, Change Healthcare, and UnitedHealth Group to address these issues, **ACP strongly encourages special attention to be paid to the ongoing and rising cybersecurity and privacy risks within the healthcare inf(w)**