



March 12, 2010

Ms. Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS-0033-P; Medicare & Medicaid Programs; Electronic Health Record Incentive Program Proposed Rule

Dossia, Google and Microsoft offer these joint comments on the HHS proposed rule implementing ARRA provisions that provide incentive payments to eligible professionals (EPs) and eligible hospitals participating in Medicare and Medicaid programs that adopt and meaningfully use certified electronic health record (EHR) technology.

We join together to emphasize a fundamental point: “meaningful use” of health information technology must include enabling individuals to direct participating EPs and eligible hospitals to electronically transmit information to their PHR. This would implement the patient’s right under ARRA to obtain information in an electronic format and to direct a covered entity to transmit a copy of such information directly to an entity or person designated by the individual. It would also guarantee that stimulus dollars are spent on health IT that would engage consumers in managing their own health and their family’s health.

In the proposed rule, HHS clearly recognizes that it is important not only for a patient to be able to receive an electronic copy of his or her health record at any single moment in time, but also to quickly receive electronic copies of new health information. However, we believe HHS should: (1) clarify that patients have the right to direct EPs and eligible hospitals to electronically transmit such information to a destination of their choice and (2) require that at least 80% of all unique patients seen by the EP are provided timely electronic access to their health information, including electronically transmitting such information to a destination of the patient’s choice when so requested.

We believe that by empowering consumers with the right information, they can make more informed decisions and work with healthcare providers to more effectively manage their health. However, to be an effective tool, patients must be able to specify that EPs and eligible hospitals electronically transmit their information to their PHRs.