



January 2, 2024

Ms. Chiquita Brooks-LaSure, MPP  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Baltimore, MD

***RE: RIN 0955-AA05 Information Blocking; Implementing the provision of the 21st Century Cures Act specifying that a health care provider determined by the HHS Inspector General to have committed information blocking shall be referred to the appropriate agency to be subject to appropriate disincentives set forth through notice and comment rulemaking.***

Dear Ms. Brooks-LaSure,

The Leapfrog Group, our Board of Directors, and members collectively comprise hundreds of the leading purchaser and employer organizations across the country. We are committed to improving the safety, quality, and affordability of health care with meaningful metrics that inform consumer choice, payment, and quality improvement. We are one of the few organizations that both collects and publicly reports on how well hospitals and other facilities prevent errors that occur in health care.

Employers and purchasers welcomed the massive investment in EMRs because adoption by providers promised to improve the clinical decision-making process, improve quality, reduce waste and inefficiency, and allow patients to move more seamlessly among settings. Information blocking thwarts all of those objectives and creates a significant patient safety hazard.

As a result, The Leapfrog Group commends CMS for its leadership proposing this rule, which would impose penalties on providers who engage in information blocking, and we offer our strongest possible support. Information blocking not only puts patients at risk, but it contributes to the waste and inefficiency that inflate health costs pose a danger to future generations. We strongly encourage more action in the future to support the improvement of patient care, including the adoption of the SAFER guides.

We support the penalties CMS proposes to impose as written in the proposed rule. Providers should not profit when information blocking harms their patients and generates inefficiency and waste. We also support the priorities for investigation as outlined in the rule.

Regarding your request for comments about information blocking caused by providers that are currently exempt from this rule: we propose that those entities be added to the Medicare List of Excluded Individuals/Entities (LEIE), also known as the Excluded Provider list. This would incentivize covered entities to work only with providers that comply with the interoperability standards. If adding providers to the LEIE is not feasible, as a secondary option we would support CMS imposing penalties on covered entities that do business with information blocking providers. Either way, we strongly encourage CMS to take action to assure that no provider whose services are used by Medicare beneficiaries is able to engage in practices like information blocking that lead to patient harm.

Lastly, we encourage CMS pursuing partnerships with purchasers and payors in the commercial insurance industry that should align in penalizing information blocking. Health care purchasers are major proponents of interoperability and strongly supportive of stern strategies to remove barriers to good patient care.

On behalf of The Leapfrog Group, our Board, our members, and the others who have signed in support of our letter, we appreciate the opportunity to provide our strongest possible support for CMS' proposal to penalize information blocking.

Sincerely,



Leah Binder, M.A., M.G.A  
President & Chief Executive Officer  
The Leapfrog Group

**Cosigning Individuals and Organizations Supporting these comments on the CMS FY 2024 proposed rule:**

ARC Fertility  
Ariana Longley, MPH  
Dallas Fort Worth Business Group on Health  
Dr. David Classen, University of Utah  
The ERISA Industry Committee  
Florida Alliance for Healthcare Value  
Greater Philadelphia Business Coalition on Health  
Healthcare Tennessee  
Houston Business Coalition on Health  
The Health Policy Corporation of Iowa  
Midwest Business Group on Health  
North Carolina Business Coalition on Health  
Patients for Patient Safety  
Peak Health Alliance  
Project Patient Care  
Purchaser Business Group on Health  
Texas Business Group on Health  
Washington Health Alliance