July 11, 2011

Donald M. Berwick, MD
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1503-FC
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Medicare Program; Proposed Changes to the Electronic Prescribing (eRx) Incentive Program (CMS-3248-P)

Dear Administrator Berwick:

The American Society for Radiation Oncology (ASTRO) appreciates the opportunity to provide written comments on the “Proposed Changes to the Electronic Prescribing (eRx) Incentive Program (CMS-3248-P)” published in the Federal Register on June 1, 2011. ASTRO is the largest radiation oncology society in the world, with 10,000 members who specialize in treating patients with radiation therapies. As the leading organization in radiation oncology, biology, and physics, the Society is dedicated to the advancement of the practice of radiation oncology by promoting excellence in patient care, providing opportunities for educational and professional development, promoting research and disseminating research results and representing radiation oncology in a rapidly evolving healthcare environment.

Beginning in 2012 Medicare physician payments will be reduced by 1 percent for eligible professionals who are not successful electronic prescribers during the reporting period of January 1, 2011 – June 30, 2011. In order to assist eligible providers who experience obstacles in participating and provide them a way to avoid the 2012 e-prescribing penalty, CMS proposed that eligible providers will have an opportunity to attest through an on-line web portal by October 1, 2011 that they should be eligible for one of the following exemptions:

- Physician is registered to participate in the Medicare or Medicaid EHR Incentive Program and has adopted certified EHR technology.
- Physician is unable to electronically prescribe due to local, State, or Federal law or Regulation (e.g., prescribes controlled substances).
- Physician infrequently prescribes (e.g., prescribes fewer than 10 prescriptions between January 1, 2011 –June 30, 2011).
- There are insufficient opportunities to report the e-prescribing measure due to program limitations.
In addition to the proposed exemptions, Medicare has already implemented two exemptions to the program that are currently available to providers. These exemptions are:

- The eligible professional practices in rural areas with limited high-speed Internet access.
- The eligible professional practices in an area with limited available pharmacies that can receive electronic prescriptions.

In this proposed rule, CMS also wants to harmonize the Medicare EHR and e-prescribing incentive programs on a technological basis. Under current regulations, e-prescribers must use software programs that CMS deems "qualified." Under the proposed rule, a clinician could earn an e-prescribing bonus with an EHR system that has been certified by any number of federally appointed vetting organizations. This language is similar to the requirements in the Medicare EHR program. **ASTRO strongly supports all proposed modifications to the Medicare eRx Incentive Program and urges CMS to finalize these proposed regulations as quickly as possible.**

**Proposed Hardship Exemptions**

The 2006 Institute of Medicine (IOM) report, “Preventing Medical Errors,” estimated that each year some 530,000 adverse drug events take place among Medicare beneficiaries because of drugs negatively interacting with other drugs the patient is already taking, or there is insufficient information about the patient’s medical history. ASTRO believes e-prescribing can positively contribute to improved beneficiary health outcomes by enhancing quality and efficiency. To that end, we support the Agency’s efforts to promote widespread adoption of electronic prescribing among Medicare beneficiaries.

Despite the best efforts of the Agency, the Medicare eRx Incentive Payment Program has significant program limitations which make it difficult for some providers to participate. Many radiation oncologists are in this situation. While many radiation oncologists would not meet the criteria for an eligible prescriber, and therefore would not be subject to the eRx incentive payment or penalty, some would meet the criteria. ASTRO has heard from several members who meet the eligible provider criteria but are unable to participate due to a variety of program limitations. For example, radiation oncologists report E/M codes for new patients and follow up visits, the type of code CMS has designated should be reported with the e-prescribing measure. The new patient visits are typically to decide on the role of radiation, and follow up visits are to evaluate the patient for any sign of recurrence of the cancer after treatment. Medications are not typically prescribed during either of these types of visits.

Radiation oncologists do prescribe medications for managing the side effects of radiation therapy during the course of treatment or within the 90 days after completion of treatment when no E/M visit codes can be reported. Also radiation oncologists may prescribe narcotics which cannot be prescribed electronically. These members are potentially at risk for the penalty due to no fault of their own.

ASTRO believes most of the scenarios described above would be covered under the proposed hardship exemptions, and they would bring a level of fairness to the program for providers who are in the unfortunate predicament of being eligible providers but unable to fully participate in the program. It is important to note that this inability to participate for various reasons impacts many specialties, not just radiation oncology. For these reasons, ASTRO fully supports the implementation of the hardship exemptions detailed in these proposed regulations which we believe would benefit providers of many specialties.
While we support these proposed regulations, ASTRO urges CMS to ensure that the method of attesting is not too burdensome and that providers are given sufficient time to do so. In the regulations the Agency stated that they will try to develop a web-based tool for providers, but if that is not feasible, CMS may require other methods of requesting a hardship exemption. **ASTRO urges CMS to develop web-based tools to facilitate the submission of an application for hardship exemption. These tools could reduce the burden on providers submitting data and on CMS processing these requests.** **ASTRO also strongly recommends that the regulations be finalized and implemented in a timely manner, allowing sufficient time for providers to submit exemption requests.**

**Modifications to eRx Prescribing Measure G8553**

CMS is proposing to revise the description statement for the 2011 eRx measure. Currently, the description statement indicates that the measure documents whether an eligible professional or group practice has adopted a "qualified" eRx system. CMS proposes to revise this description statement to indicate that the measure documents whether an eligible professional or group practice has adopted a "qualified" eRx system or “certified EHR technology” as defined in 42 CFR 495.4 and 45 CFR 170.102. The purpose of this proposed revision is to provide greater harmonization between the Medicare EHR program and the Medicare eRx program.

CMS has proposed this change in response to a 2011 report published by the Government Accountability Office (GAO) titled “Electronic Prescribing: CMS Should Address Inconsistencies in Its Two Incentive Programs That Encourage the Use of Health Information Technology” that concluded CMS should address the inconsistencies between the eRx Incentive Program and the EHR Incentive Program.

**ASTRO fully supports the proposed change to G8553 and appreciates the Agency’s efforts to try and better harmonize the two programs.**

Thank you for the opportunity to comment on this proposed rule. We look forward to continued dialogue with CMS officials. Should you have any questions on the items addressed in this comment letter, please contact Sheila Madhani, Assistant Director, ASTRO Health Policy Department at (703) 839-7372 or sheilam@astro.org.

Respectfully,

Laura I. Thevenot  
Chief Executive Officer