

## Response to Public Comments

We received 11 comments on the Open Payments proposals presented in the CY 2022 PFS NPRM. Comments regarding the reporting of information, the disclosure of information, and/or recordkeeping are summarized below.

### *a. Payment Context Field for Teaching Hospitals*

We received several comments on this proposal, which were evenly split in support and opposition. Commenters who agreed expressed support for our belief that the proposal would enhance communication between reporting entities and teaching hospitals in a proactive way, thereby reducing the need for disputes. One commenter suggested that additional inputs may include whether education was involved and which services were provided, and that CMS should expand the list of suggestions to avoid limiting reporting entities' inputs. Commenters who disagreed with the proposal stated that the field would increase burden without decreasing disputes, and the lack of standardization would be problematic since reporting entities would not have direction on what to input and teaching hospitals might not understand the additional context.

Response: We believe that the additional field will be a minimal burden on reporting entities, but that the new field will give needed context to the payments based on feedback from both reporting entities and teaching hospitals. The integrity of the data is our highest priority, and this additional information will help ensure accuracy. We also believe that the flexibility regarding the field's contents will be much easier for reporting entities than specifying a mandatory piece of information. We hope to continue to minimize dispute-related issues, and we consider this new field to be a positive step to address both reporting entities' and covered recipients' communication concerns. Therefore, we are finalizing this provision as proposed.

### *b. Disallowing Record Deletion Without Reason*

Some commenters were supportive of our proposal, while others were skeptical. These commenters mostly submitted system suggestions that would reduce burden, including: creating pre-filled options for deletion reasons instead of a free form text box; creating a threshold at which the reason for deletion would be required; and having the reason automatically populate as "dispute" if the deletion was on a disputed record.

Response: We clarify that while we have not seen evidence of reporting entities reporting and deleting records to avoid publication, we believe our proposed language is nonetheless important to ensure such conduct is proscribed. Furthermore, CMS and reporting entities both currently bear an administrative burden—created when CMS needs documentation to confirm that a deletion is legitimate since attestation had previously been made as to the record's timeliness, completeness, and accuracy—when records are deleted without context. With proper reporting methodologies in place, deletions should be relatively rare and burden should be minimal, especially with respect to undisputed records. We believe that the proposed requirement will afford a needed layer of integrity to the data and we finalize it as proposed. However, we appreciate the feedback on logistical options and will take them into consideration as much as possible as we implement this requirement so as to minimize burden.