

Public Testimony

To: Office of the National Coordinator, Policy Committee, Department of Health and Human Services

CC: Wayne Gattinella, Craig Froude, Bob Marotta, Doug Wamsley, Charlie Mele, Tony Vuolo, Matt Kaminer

From: Philip Marshall MD, MPH VP of Product Strategy, WebMD Health

Date: October 20, 2009

Topic: **Business Issues related to the Electronic Exchange of Laboratory Data**

Distinguished members of the Committee,

It is my pleasure to represent WebMD on today's panel to discuss the electronic exchange of lab data. My testimony follows the questions that have been submitted to us.

1. What are the technology impediments to the electronic exchange of lab data?

WebMD Health Services, which serves employers and health plans with private health and benefit management portal solutions including Personal Health Records, has imported laboratory test results into the PHR either directly from reference labs or through our health plan clients, since 2005. We have followed the HL7 standards for the formatting of that data, we have implemented standard secure exchange protocols and encryption schemes to ensure safe transport, we have implemented support for the LOINC and SNOMED CT vocabularies, and we have implemented PHR services that are able to display individual results as well as test panels, translate that information into consumer understandable terms, and link to additional information on that test. While this work has taken significant planning, we have not encountered significant technology impediments to the exchange of this data.

2. What are the business case impediments to the electronic exchange of lab data?

We have imported lab test results as part of a more comprehensive health management program offered to our end users and supported by our employer and payer clients. As part of this program, consumers are encouraged to gather, store, manage and share their data, including their test results, and utilize services that help them to improve their health and make more informed health decisions. This has resulted in a relatively clear business proposition to both end-user and client. We

have not encountered significant business case impediments to the exchange of this data.

3. What are the operational impediments to the electronic exchange of lab data?

While the operational considerations for the exchange of lab test results are important, including the file transfer procedures and user identity verification, we have not encountered significant operational impediments to exchanging lab data.

4. What are the regulatory impediments to the electronic exchange of lab data?

The regulatory impediments are the significant barriers that we experience in accessing lab test results. Today, given the federal regulations that defer to state CLIA laws and their definition of “authorized persons” which does not include the consumer subject of the lab, and given the complex tapestry of state laws, enabling consumers to gain access to their own results is very difficult. Below we have described how we work with health plans to access some lab test results, but this is accessible only for a relatively limited population of end users.

5. What is the low-hanging fruit for improving electronic exchange of lab data?

Recently, an open letter was published through HealthDataRights.org which proposes two common sense changes to the federal regulations that could help consumers to gain access to their lab test results. We believe that this is a good first step, although we recognize that many restrictive state laws would still have to be addressed in order to have convenient access by consumers nation-wide.

6. What’s a priority to facilitate easier/broader electronic exchange of lab data, even if not immediately actionable?

Addressing the complex array of state laws restricting lab data access must be a longer-term objective.

7. What best practices would you recommend in this area?

There are a number of steps that are important to making the best use of test results for consumers. While the following steps are not related to the exchange of the data per se, they are important to the use of this data by consumers. These steps include translation of complex LOINC and SNOMED CT codes to consumer understandable terms, grouping of results into panels or graphs, and even rolling up multiple LOINC

or SNOMED CT coded concepts into semantically identical groupings for ease of use. Normal ranges are important to display for consumers as well. Finally, it is important for consumers to have quick access to additional information on each of their results. This can be accomplished through cross-linking of the imported codes to reference articles on those specific tests.

8. What work-arounds for these impediments have you experienced/designed/observed?

Health plans often have contracts with their network physicians allowing them access to the data that arises from the encounters of their members, including the lab test results. But many do not, and employers don't have such contracts. Therefore, despite the health plan provider contracts, lab test results are largely inaccessible for our consumer users.

12. Do you believe that the adoption of a universal compendium/dictionary will reduce costs related to the implementation of lab interfaces and improve electronic exchange?

We believe that a universal dictionary of lab concepts is critically important to their utility by consumers. Today, the LOINC vocabulary is very difficult to utilize, as there are too many concepts that pertain to nuances of testing that are unimportant to our users, such as "manual count" vs. "automated count". Simplification of this vocabulary, or the choice of SNOMED CT for all lab results, should be a priority.

14. What standards, if any, would you recommend for the electronic transmission of lab data?

We believe that HL7 standards, including 2.3x and CCD, are appropriate for the transmission of lab data, and the SNOMED CT vocabulary is best suited to lab tests, although we do support LOINC today.

15. How do you ensure lab data is transmitted securely and confidentially?

Please refer to prior testimony on the procedures and practices used by WebMD to ensure the secure exchange of data.

16. What are the obstacles preventing patients from receiving copies of their lab data?

As mentioned above, the regulatory barriers are significant for patients to receive a copy of their lab data. These include both federal (OCR/CMS) regulations, as well as state regulations. If all providers had electronic record systems with patient access and interoperability, then the current legal framework requiring that patients get their test results from the ordering provider would not be as significant a barrier as it currently is. But with the low number of such systems, and given the estimated 7% of clinically significant test results that are never reported to the patient, and given that approximately 14% of lab tests are duplicated because prior results cannot be located, and given the tremendous expansion in the number of health management platforms, applications and services that could readily utilize lab test results to help the consumer better manage their health and make more informed health decisions, we believe that it is very important that the legal barriers to consumer access to data be removed. Those barriers include federal regulatory barriers which treat lab data as separate from other protected health information under HIPAA, and the definition of “Authorized Persons” not including the patient who is the subjects of the results. We believe that if these two federal regulations were changed so that lab data was treated as other protected health information, and the definition of Authorized Persons was changed to include the patient (upon their request), this would be a significant step toward greater data fluidity and greater consumer engagement in their health care.