

CMS SEEKS COMMENTS ON DISPUTE RESOLUTION AND CORRECTIONS PROCESS FOR SUNSHINE ACT PAYMENTS

According to a [Federal Register notice](#) published on May 5, physicians and teaching hospitals will soon be able to register with the Centers for Medicare and Medicaid Services ("CMS") to receive notices from and access to [CMS's Open Payments database](#). The Open Payments database will contain information about payments and other transfers of value that pharmaceutical and medical device manufacturers and group purchasing organizations ("GPOs") make to physicians and teaching hospitals as required by the Sunshine Act. Starting September 30, 2014, that information is scheduled to be made public, and in order to first view and dispute the information, physicians and teaching hospitals must first complete a registration. Prior to the information being made public, the manufacturers, GPOs, physicians and teaching hospitals are supposed to have a 45- to 60-day period in which to resolve any disputes. Although physicians and teaching hospitals can begin registering as early as June 1, it is expected that they will not be able to access the Open Payments system or dispute the data until a date much later in the summer. This may not leave much time to take advantage of the window for dispute resolution. CMS is soliciting comments from the public until June 2, 2014 on the dispute and resolution process, and physicians and teaching hospitals may want to use the opportunity to request that CMS delay the September reporting date if they feel they will not have enough time to both analyze and dispute the data after getting access to the Open Payment database. Likewise, if most disputes are raised toward the end of the 45-day dispute and resolution period, as they are likely to be, then manufacturers and GPOs may also want to comment that they will not have enough time to adequately resolve disputes. If CMS is experiencing any difficulties launching the database, then the agency may be amenable to delaying the database's go-live date. Hall Render is working with interested parties to submit comments to CMS. If you are interested in joining us in developing and submitting comments to the agency, contact information is provided at the end of this article. For more information about the Sunshine Act, please view our previous articles:

- [CMS Publishes the Final Physician Payment Sunshine Rule. February 20, 2013.](#)
- [Final Sunshine Rule Requires Reporting of Physician Ownership in GPOs and Health Products Manufacturers. March 13, 2013.](#)
- [Sunshine Act Compliance Begins: CMS Provides Related Payment Tracking Apps, Q&As and Other Resources. August 9, 2013.](#)

PHYSICIAN AND MANUFACTURER RESOURCES

CMS has created a [physician-focused page](#) on its Open Payments website. Some of the information available for physicians includes a [Program-Overview-for-Patients-\[August-2013\]](#) that the agency recommends physicians share with their patients and an [Open Payments program overview](#) designed specifically for physicians. For manufacturers and GPOs, CMS recently posted [a webinar outlining the procedures that companies will need to follow as they begin submitting data](#). In the webinar, the agency announced the first of several scheduled educational tutorials. The first tutorial explains how to prepare data submissions using resources recently updated by CMS, such as using CSV and XML Sample Files and XML Schema Definition to format data for uploading. In the webinar, CMS goes through the Bulk File Upload process, which is the recommended method for data submission companies with large volumes of reportable data. For those companies intending to use manual data entry methods, CMS advises that such companies should not begin trying to report data until after the agency issues detailed step-by-step instructions. Future CMS webinars will discuss how to register in the Open Payments system, how to submit data files in acceptable file formats and how to attest to the accuracy of the data. The agency also says it is still developing a series of tutorial videos to explain additional topics, including how to complete the CMS registration process. If you have any questions or would like additional information about this topic, please contact Mark R. Dahlby at mdahlby@hallrender.com or 414-721-0902 or your regular Hall Render attorney. For more information on topics related to health care law, please visit the Hall Render Blog at <http://hallrender.com/resources/blog/>.