

## The Centers for Medicare & Medicaid Services (CMS) Temporarily Closes the Open Payments System

Article By:

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**Open Payments** is the website through which pharmaceutical and medical device manufacturers (“Manufacturers”) report payments and transfers of value to physicians and teaching hospitals, as required by the Sunshine Act. The [Open Payments system](#) has encountered data issues and has been the subject of growing criticism from physician organizations and industry groups. The Centers for Medicare & Medicaid Services (“CMS”) recently announced that the Open Payments website went offline “temporarily to investigate a reported issue” involving incorrect data. The shutdown raises questions about CMS’s ability to make Sunshine Act data publicly available by its September 30, 2014 deadline and the accuracy of the reported data.

CMS has implemented a multi-step process for data reporting and validation under the **Sunshine Act**. During the first step, completed around June 30, 2014, Manufacturers covered by the Sunshine Act reported to CMS payments and transfers of value to physicians and teaching hospitals. Now that Manufacturers have submitted payment data, physicians and teaching hospitals (the payment recipients) are in the midst of a 45-day period during which they may register through Open Payments and review and dispute the data that Manufacturers have reported about them. Lastly, once the review and dispute process has ended, CMS will publicly release payment data by September 30, 2014.

During the review and dispute process, however, physician organizations and industry groups have raised a number of concerns about both payment data and the mechanics of the process.

- **Context for payments** – The Pharmaceutical Research and Manufacturers of America, along with many medical societies and industry groups, [wrote to CMS](#) and asked CMS to provide context for the payments that will be publicly reported. Pointing to the lack of context in Medicare Part B billing data that CMS published earlier this year, these groups explained that data without context can lead to confusion and misinterpretation. [Several of my colleagues discussed](#) CMS’s release of Medicare billing data.
- **Lack of physician awareness** – There are also concerns that physicians are not aware of the Sunshine Act or their option to review and dispute Manufacturers’ reported payments. As my colleague [Karen Lovitch](#) explained in a recent [Law360 article](#), many physicians are likely to be surprised by public reports showing that they received payments or other transfers of

value.

- **Registration complexity** – According to the American Medical Association (“AMA”), physicians have also [expressed frustration](#) with the complex Open Payments registration process and the website’s unavailability during maintenance periods. These issues may have constrained physicians’ ability to review and dispute payments.

It remains to be seen whether any technical glitches in the Open Payments website, or the larger concerns recently voiced by physician and industry groups, will delay CMS’s data release on September 30th. The AMA, along with many other associations and physician groups, recently asked CMS to wait six months, until March 31, 2015, to publicly release Sunshine Act data. Even if CMS holds to its September 30th deadline, it has given physicians some comfort in the near term by adjusting the review and dispute deadline for each day the Open Payments system is offline while CMS investigates the data incident.

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