

Public Comment on CMS-0042-NC

Request for Information: Health Technology Ecosystem

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Response to PR-6: TEFCA's Impact on Provider Access to Health Information

a. Please provide specific examples.

TEFCA is not currently advancing provider access to health information. Instead, it has created more restrictive conditions than existing interoperability frameworks, particularly affecting legitimate healthcare providers who operate under alternative payment models.

Specific Impact on Cash-Pay Providers: Prior to TEFCA implementation, primary care providers could participate in Carequality-based health information exchange regardless of their reimbursement model. Under current TEFCA Required Treatment Exchange Purposes, providers operating direct-pay or cash-based models are categorically prohibited from Treatment-based exchange across networks that have aligned with TEFCA standards, including Carequality and CommonWell.

This restriction affects thousands of legitimate healthcare providers, including:

- Direct primary care practices
- Concierge medicine providers
- Cash-pay specialists
- Providers serving uninsured populations

Administrative Burden Increase: Even insurance-billing providers now face significantly longer onboarding processes under TEFCA requirements, creating delays in accessing patient historical data essential for clinical decision-making. This administrative burden contradicts stated goals of improving provider efficiency and patient care coordination.

Governance Concerns: An incident in 2024 highlighted existing governance gaps in health information networks when questions arose about non-treatment data access. While addressing

these concerns was necessary, TEFCA's response has been disproportionately restrictive, potentially limiting legitimate clinical use cases. Given documented instances of major EHR vendors influencing federal health IT policy in previous administrations, the current restrictions warrant scrutiny regarding whether they serve patient access goals or protect incumbent market positions.

b. What changes would you suggest?

1. Establish Clinical Credential-Based Access TEFCA should permit provider participation based on clinical credentials and patient authorization rather than payment model restrictions. A licensed physician treating patients should have the same access to patient health information whether they accept insurance or operate on a cash-pay basis.

2. Implement Transparent Governance Structure CMS should require TEFCA governance bodies to:

- Publish decision-making processes and criteria
- Disclose potential conflicts of interest among governing members
- Provide public comment periods for significant policy changes
- Establish appeals processes for access determinations

3. Preserve Existing Network Functionality Rather than replacing functional frameworks, TEFCA should enhance existing networks' capabilities while maintaining their proven operational models. Carequality's core framework is sound; its governance processes can be strengthened without wholesale replacement.

c. What other options are available outside of TEFCA?

Several established networks provide mature alternatives to TEFCA:

Carequality: Demonstrates proven interoperability with broad provider adoption across diverse practice models. Its technical infrastructure successfully supports nationwide health information exchange.

CommonWell Health Alliance: Maintains established governance structures and technical capabilities that have enabled effective data sharing among participating organizations.

Recommendation: These networks should continue independent operation and development during TEFCA's maturation period to ensure continuity of provider access and prevent disruption of existing clinical workflows.

d. Are there redundant standards, protocols or channels that could be consolidated?

Yes, current implementation reveals significant redundancy between TEFCA and existing frameworks without meaningful differentiation:

Technical Standards: Both TEFCA QHINs and Carequality utilize identical data standards (IHE/CCDA) and similar security protocols.

Use Case Support: Both frameworks currently support only Treatment-based exchange, providing no expanded functionality.

Market Incentives: Neither framework provides government incentives for participation, relying on voluntary adoption.

Consolidation Opportunities:

- Harmonize governance requirements across frameworks to reduce administrative burden
- Establish technical interoperability between networks rather than requiring exclusive participation
- Develop unified credentialing processes that recognize existing network participation
- Create consolidated reporting mechanisms for quality metrics and outcomes measurement

Conclusion

TEFCA's current implementation restricts rather than advances provider access to health information. To achieve stated interoperability goals, CMS should prioritize patient access and clinical need over payment model restrictions, establish transparent governance processes, and build upon rather than replace functional existing frameworks.

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