Boost Payment Solutions, LLC
767 Third Avenue
New York, NY 10017
T 212 750 7771
F 646 219 6100
www.boostb2b.com

Dean M. Leavitt
Chairman & CEO

June 6, 2014

Statement for the Record
National Committee on Vital and Health Statistics
Subcommittee on Standards

Ladies and Gentlemen:

Boost Payment Solutions (Boost) commends the Subcommittee on Standards for the National Committee on Vital and Health Statistics (NCVHS) for including an inquiry into the use of credit cards to pay health care claims on the agenda for the hearing upcoming on June 10, 2014.

Using card-based electronic funds transfer ("EFT") to pay healthcare claims has the potential to accelerate payments to providers, enhance HIPAA-compliant remittance data transfer, facilitate accounting and reconciliation, improve security and speed claim resolution for patients. Given this wide array of benefits, Boost writes in strong support of the continued inclusion of credit cards (including virtual cards) as an acceptable method of electronic payment for health care claims made pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") as amended by the Patient Protection and Affordable Care Act ("ACA"). Furthermore, Boost urges the Subcommittee on Standards to prioritize and promote the development of standards that will remove existing barriers to credit card use to pay healthcare claims as an integral part of the administrative simplification process.

In this letter, we provide additional detail on the benefits and reasons for prioritizing the development of standards for card payment. Our comments also address concerns and misinformation about card use that has circulated as the Subcommittee proceeds with this inquiry. However, we first address a procedural point to ensure that the Subcommittee forms its recommendations on this important topic based on the most complete record possible.

1. **Getting Input From All Stakeholders Will Yield the Most Sound Policy Recommendations**

The upcoming hearing provides the Subcommittee a great opportunity to get a deeper understanding of card-based EFT in healthcare, how it differs from other forms of electronic payment, its benefits and concerns that some have about its use. All may submit written comments for the record. Boost appreciates that opportunity and encourages the Subcommittee to consider comments from all stakeholders carefully. However, the list of invited speakers in the proposed hearing agenda indicates that neither the payer community nor the credit card industry will present, even though a last minute invitation was extended.

Given the complexity of the issues and the stakes involved in this hearing, Boost encourages the Subcommittee to invite presentations from health payers and the card industry – either in advance or

from the floor – to promote the most comprehensive, balanced look at the benefits, concerns and broader implications of card use. In examining card-based electronic payments for health care claims, getting input from the widest possible range of stakeholder groups – including health payers and the payment industry – will yield the most robust and complete record to guide NCVHS policy recommendations on this important topic.

2. **Permitting Multiple EFT Methods Promotes Choice, Flexibility and Innovation**

As a matter of sound policy, the U.S. Department of Health and Human Services ("HHS") has prudently decided not to mandate any particular form of electronic funds transfers ("EFTs") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") administrative simplification provisions. In the HIPAA EFT rules, HHS explicitly chose to permit a wide variety of EFT forms, including payment card, rather than require only use of the National Automated Clearing House Association's (NACHA's) Automated Clearing House ("ACH") Network. Indeed, in adopting a standard for EFT by means of the ACH Network, HHS specifically noted that HIPAA-covered health plans are not required to send health care EFT through the ACH Network. They may decide, for instance, to transmit a health care EFT via Fedwire or via a payment card network. This interim final rule with comment period neither prohibits nor adopts any standard for health care EFT (as defined in § 162.1601(a)) transmitted outside of the ACH Network.

Administrative Simplification: Adoption of Standards for Health Care Electronic Funds Transfers (EFTs) and Remittance Advice, 77 Fed. Reg. 1556, 1567 (Jan. 10, 2012).

HHS adopted a standard for EFT transactions conducted through the ACH Network, while permitting the health care industry to continue to with conducting EFT transactions through other electronic payment mechanisms, including payment card. In doing so, HHS expressly declined to establish a needless monopoly in health care EFT in favor of a policy that fosters healthy competition in the electronic health care payments arena, promoting choice, flexibility and innovation. Maintaining that policy direction will enable health care providers and health plans to select the optimal EFT form to streamline claims processing, optimize cash management and extract cost from the administration of the health care system.

3. **Card Payments Have Many Benefits for Simplifying and Streamlining Healthcare Claims Processing**

Using a credit card for EFT payment of health care claims affords the payers the option of paying providers quickly while retaining cash for longer periods of time. Faster payment improves cash flow and enables providers to reduce reliance on lines of credit or other debt to fund day-to-day operations. Since "time is money," shortening the time for claims payment has a ripple effect to reduce costs throughout the entire health care industry.

Health care providers and health plans choose to conduct EFT utilizing card payments for many valid reasons, including:

- When payments are small, in terms of dollar value or with smaller providers and health plans where few claims are submitted per year, it makes the set-up, accounting and processing cleaner and simpler
- With non-traditional providers, including chiropractors and acupuncturists, and or new providers entering the healthcare space that want to get set up quickly.

- Where providers do not want to configure their systems to accept ACH payments and/or they already have card-based methods integrated into their payment systems.

- Where providers do not want to provide their banking information to health plans for security reasons, card payments –particularly single use virtual cards, provide a highly secure option

- Where accepting card payments facilitates a much more efficient reconciliation of payments on a consolidated basis instead of needlessly expending resources on multiple reconciliations for ACH payments on a claim-by-claim basis. In these instances, card payments provide an option that offers value and savings from enhanced security, operational efficiencies, accounting and streamlined reconciliation unavailable with other forms of EFT for healthcare claims.

4. **Weigh the Source and Accuracy of Information About Card Use Carefully**

The record of the proceedings on this topic suggest that the Subcommittee has received concerns, complaints and criticisms based on misinformation about payment cards or the use of cards for EFT payments in health care transactions. Some of this misinformation comes from individuals and/or organizations with interests adverse to or in direct competition with payment cards. Other instances have come from those who simply lack knowledge and expertise on the use of card payments in the health care field. Carefully weighing input from all stakeholders will help the Subcommittee sort through the diversity of viewpoints on this topic and separate misinformation from the valid factual points that provide the necessary predicate necessary to formulate sound policy recommendations.

In an effort to help the Subcommittee have the most balanced and accurate understanding of the use of payment card for EFT in healthcare transaction, Boost addresses below some of the more egregious examples of misinformation that has circulated concerning payment card.

Status of ACH under HIPAA. Some entities have taken the fact that HHS/CMS have adopted a HIPAA standard only for ACH EFT to suggest that ACH is the only permissible form of EFT under HIPAA and that HHS has not sanctioned the use of payment card as permissible under HIPAA. As the Subcommittee well knows, this is not the case. HHS and CMS have repeatedly recognized that, although a HIPAA standard has been adopted for ACH EFT, payment card, FedWire, and other forms of EFT remain permissible under HIPAA.

Enrollment/Acceptance. Competitors or critics argue that, to accept card payments, a provider must have a bank account, an agreement with a merchant card processing provider, and a point of sale (POS) processing system/terminal. In point of fact, any provider who accepts credit cards for payments by patients will have all three already – and most providers, regardless of size, accept payment cards today. Indeed, many providers accept credit cards are realizing significant operational efficiencies with advanced payer pushed offerings that facilitate the processing on a consolidated basis for the providers and providing data electronically to automate the reconciliation.

Manual Processing of Payment. Payment card competitors and critics argue that information about each payment (virtual card number, expiration date, etc.) has to be entered manually into the provider's point of sale processing system/terminal in order to process payment. As indicated above, this is not always the case with a payment card EFT transaction. In addition, the payment industry now offers an advanced automated payment card transaction processing service, "Straight Through Processing" (STP), also known

as “Buyer Initiated Payment” (BIP), which does not require a provider to manually key enter the card number into POS terminal in order to get paid via a payment card EFT transaction. Indeed, STP transactions require no action on the part of the provider to initiate or complete settlement of the payment transaction. With STP, the Buyer (in this instance, the health plan/payer) submits a payment directly through the provider’s acquiring institution for disbursement: the payment is processed automatically on behalf of the provider through the card payment networks, and the provider receives the funds directly into its merchant bank account, in a direct deposit manner similar to an ACH transaction.

Cost/Fee. Payment card competitors and critics argue that the cost or fee of accepting a payment via virtual card involves an interchange fee, calculated as a percentage of total payment (averaging 3% or higher), plus a transaction fee. Such competitors or critics do not acknowledge the wide range of interchange fee structures -- with 3% representing not the average interchange fee, but rather being on the high end of the range. Fees can vary based on (1) the provider/acquirer relationship, i.e., the terms of the business service agreement or other pricing structures, especially for larger and/or high volume of payments, and (2) the type of value-added services, if any, that are being provided in connection with the payment. Transaction fees for accepting card payment can vary based on a number of factors and are subject to negotiation. Providers can, and do, get better rates for card acceptance. In addition, the fees charged also reflect the services being provided: often a provider receives other, value-added services in addition to the payment transaction for which the fees are being assessed. Such value-added services may include the provision of information to permit re-association of the payment with the claim(s) or the remittance advice(s), as well as simultaneous transmission of remittance information through the same channel, simplifying accounting and facilitating reconciliation to yield significant operational efficiencies for providers. Moreover, competitors and critics often refer to standard interchange pricing, not to the actual interchange fees charged in the marketplace, which have come down for institutional payment transactions to reflect the differences between B2B/G2B payments and traditional consumer payment transactions. Finally, HHS – and the health care industry – should understand that payment card pricing is evolving as B2B and G2B payment card EFT transactions grow (with their potentially lower risk profile) and as merchant processors seek to support the needs of their customers, including health care providers, in light of these developments.

Funds Availability/Settlement. Competitors argue that the settlement of virtual card funds from the processor to the provider’s account occurs 1-5 business days (and generally 2-3 business days) after the transaction is entered into the POS terminal. This is contrasted with next day (ACH EFT) and same day (wire transfer) availability of funds. This is misleading with respect to the comparison between ACH and payment card EFT because the time for funds availability is really no different between the two types of EFT: With ACH, funds availability can take up to 3 business days, regardless of whether the transaction is a direct ACH or an ACH initiated directly by the payer.

Remittance Advice. Competitors and critics of payment card argue that a provider cannot receive a HIPAA compliant ERA (the ASC X12 835) with a payment card transaction and is, thus, burdened with having to engage in a manual process to reconcile payment card payments with paper remittances or to obtain remittance advice information through a web portal. It is true that the 835 ERA implementation guide adopted under HIPAA does not contain a code in the BPR04 data segment (payment method code) to designate payment card as the type of payment. The payment card industry is working with members

of X12N to encourage it to adopt revisions to the X12 implementation guide to explicitly include codes in that data segment to identify payment card transactions. The omission is problematic, and is inconsistent with HHS's express policy determination that payment card is a permissible means of EFT under HIPAA. Given HHS's policy determination, ASC X12 should conform as soon as possible. As an update, this past week X12N has agreed to correct the oversight and is working on the Business Requirements to include card payment type codes in the Payment type segment.

Risk. Payment card competitors and critics suggest that there is higher risk with virtual card EFT transactions. The basis for this suggestion is not clear. First, if the payment card EFT is an STP payment, the funds are directly deposited into the provider's merchant banking account, and there is no possibility of diversion, card data is never exposed. Second, in most cases, the information necessary to negotiate the payment card is sent in separate communications, and virtual card numbers are transmitted to providers by secure email. Third, virtual card numbers are restricted to specific merchant category codes (MCCs), which means that such payment cards can only be used by a specific type of merchant (e.g., doctors, hospitals, etc.). This is an added protection against theft of payment card EFTs. Fourth, the payment card can usually only be negotiated for the exact payment card amount, another protection against diversion. Finally, in the event of the fraudulent act, such as theft/diversion of the payment card EFT, the card issuers' guaranteed payment promise ensures that both the payer and the provider are made whole and are protected from liability.

5. **NCVHS Should Recommend that HHS Prioritize the Development of Standards and EFT Codes for Processing Payment Card Transactions for Health Care Cards**

   Developing standards and codes to facilitate card transactions to pay healthcare claims will put payment cards on a par with ACH and wire EFTs consistent with prevailing HHS policy direction to promote choice, flexibility and electronic payment alternatives. Adopting standards and codes for payment card EFTs will eliminate confusion about the status of card payments as a HIPAA compliant payment alternative and accelerate innovation in the card industry to provide payment card solutions that offer greater efficiency, security and functionality to the health care marketplace.

6. **Conclusion**

   This hearing addresses important issues about the use of payment cards in healthcare. Given the diversity of views and the stakes involved, these issues merit a balanced, in depth review. Careful, objective consideration of input from all stakeholders will yield the best policy recommendations.

   The HIPAA EFT rule well serves the health care provider and payer because it recognizes that multiple EFT options exist today, will exist in the future, will simplify administration of health care payments and will continue to create additional options within the healthcare payments eco-system. HHS and CMS made the right policy decision with respect to the health care EFT transaction standard and should stay the policy course they charted in the HIPAA EFT Rule.

   This flexible approach empowers health care providers – consistent with the dictates of HIPAA –to choose the EFT transaction option that best aligns with their practice, their relationships with particular payers, achieving administrative efficiencies in their particular operating context. Card-based solutions for health care EFT payment transactions provide important, beneficial and valuable options for health care providers and health plans that can simplify administration and reduce costs across the industry.

Prioritizing the development of standards for processing payment card transactions will simplify processing, reduce confusion in the marketplace and enable continuing competition and innovation.

Respectfully submitted,

Dean M. Leavitt
Chairman & CEO
Boost Payment Solutions, LLC.