

Meaningful Use—Provider Requirements

The first paper in the series offered a general overview of the final rule on meaningful use, published by the Centers for Medicare and Medicaid Services on July 28, 2010. This paper begins a more detailed, two-part review of the proposed rule.

The meaningful use program established by ARRA is initially an *incentive* program, not an entitlement program. No healthcare organization—provider or hospital—is required to apply for or participate in the program for the first five years.

To receive incentive payments an entity or provider must participate in Medicare Fee-for-Service, Medicare Advantage, or a state Medicaid program, with some restrictions. Beginning in 2016, however, the program becomes punitive. ARRA established that providers in Medicare programs will be penalized if they do not meet the meaningful use requirements.

Definitions

The NPRM includes several key definitions (pp. 44317–26):

- “Qualified electronic health record” is defined in a separate rule on EHR certification issued the Office of the National Coordinator for Health IT (see paper 1): “an electronic record of health-related information on an individual that (A) Includes patient demographic and clinical health information, such as medical history and problem lists; and (has the capacity to: (i) provide clinical decision support; (ii) to support physician order entry; (iii) to capture and query information relevant to health care quality; and (iv) to exchange electronic health information with and integrate such information from other sources.” CMS adopted the definition as proposed and can be found in section 3000 of the Public Health Services Act (PHSA).
- “Certified EHR technology” is also defined in the certification rule: ONC revised the definition of certified EHR technology to explicitly define the two distinct ways the definition can be met. “(1) A Complete EHR that meets the requirements included in the definition of a Qualified EHR and has been tested and certified in accordance with the certification program established by the National Coordinator as having met all applicable certification criteria adopted by the Secretary; or (2) A combination of EHR Modules in which each constituent EHR Module of the combination has been tested and certified in accordance with the certification program established by the National Coordinator as having met all applicable certification criteria adopted by the Secretary, and the resultant combination also meets the requirements included in the definition of a Qualified EHR.”

- “Payment year” is defined as the first year of payment either on a fiscal or calendar year depending on the type of program or provider. Once a provider becomes eligible in the first year, the subsequent years all follow the fiscal or calendar year. These provisions reflect those that were described in the notice of proposed rulemaking (NPRM) and the definition was not changed for the final rule.
- “EHR reporting period” is the time period for which providers must report their meaningful use. In the first year, this period is any continuous 90-day period within a payment year. For all subsequent years the program requires EHR reporting the entire payment year. The provisions adopted in the final rule reflect those that were outlined in the NPRM, and the reporting periods remain the same.
- “Meaningful EHR user” is an “EP [eligible professional] or eligible hospital who, for an EHR reporting period of a payment year, demonstrates meaningful use of certified EHR technology in the form and manner consistent with [CMS’s] standards. These standards would include use of certified EHR technology in a manner that is approved by [CMS].” The final rule adopted the definition as proposed in the NPRM.

Meaningful Use Definition

Congress established the broad framework for meaningful use within ARRA:

- Use of certified EHR technology in a meaningful manner;
- Certified EHR technology connected in a manner that provides for the electronic exchange of health information to improve the quality of care; and
- Use of certified EHR technology to submit information on clinical quality measures.

The definition of meaningful use is a series of criteria designed to meet Congress’s requirements for use of certified EHR technology (pp. 44331–80). CMS modified the measures it proposed in the NPRM, creating a “core set” and “menu set.” Its intent was to add flexibility, allowing providers some choice in the measures they must meet in the first stage of the program.

CMS notes that given the on-going advancement in EHR technology and standards, as well as change in quality measurement and other healthcare-related reporting, the meaningful use definition will mature over time. Accordingly, CMS proposed two stages of criteria over the initial years of the program, 2010 through 2014. The NPRM initially proposed three stages, but the final rule removed language that discussed possible direction for any year beyond 2014. The table below outlines how CMS anticipates applying the respective criteria of meaningful use in the first several years of the program.

As it first described in the NPRM, CMS proposes that criteria stage be based on the year a provider joins the program rather than on calendar years. This flexibility allows providers to enter the program in a staggered approach that accommodates those who may not be ready to join the program in the first year. Thus a provider who enters the program in 2012 would still use the stage 1 criteria (and be eligible for the highest incentive payments).

The following table appears in the final rule, illustrating this staged approach.

| Table 1—Stage of Meaningful Use Criteria by Payment Year | | | | | |
|---|---------------------|-------------|-------------|-------------|-------------|
| First Payment Year | Payment Year | | | | |
| | 2011 | 2012 | 2013 | 2014 | 2015 |
| 2011 | Stage 1 | Stage 1 | Stage 2 | Stage 2 | TBD |
| 2012 | | Stage 1 | Stage 1 | Stage 2 | TBD |
| 2013 | | | Stage 1 | Stage 1 | TBD |
| 2014 | | | | Stage 1 | TBD |

CMS confirmed that stage 1 focuses on:

- Electronically capturing health information in a structured format, which can then be used to track clinical conditions, and communicating that information for care coordination purposes
- Implementing clinical decision support tools to facilitate disease and medication management
- Using EHRs to engage patients and families
- Reporting clinical quality measures and public health information

Table 2 (pp. 44370–75) is a demonstration of the meaningful use objectives and associated measures sorted by core and menu sets. The criteria and their measurement will be covered in future papers in this series.

Submission of Clinical Quality Measures

Congress established that clinical quality measurement reporting would be a requirement of the program. Within the final rule, CMS acknowledges that the measure requirements will change over time, reflecting the evolution of technology and reporting capabilities as well as the transformation of quality of care measures.

Many of the measures outlined in the NPRM were removed in the final rule, and CMS finalized only those clinical quality measures that can be automatically calculated by a certified EHR technology. It further limited the measures to those for which electronic specifications are currently available, which significantly reduces the number of measures providers are required to report in 2011 and 2012. The quality reporting requirements are discussed in future papers.

Additionally, within the NPRM CMS had proposed measures based upon specialty groups along with a core set of measures. The final rule reflects a modified process that places measures in a comprehensive list with associated reporting requirements, Table 6 outlines the measures (pp. 44398–408).

Demonstration of Meaningful Use and Data Collection

The final rule outlines the means for collecting data to demonstrate meaningful use as well as the exchange of data between Medicare and Medicaid to run the program (pp. 44435–39), no changes were made in this section. CMS advocates for uniformity and simplicity in this process and suggests that Medicaid programs follow its lead.

Hospital-based Eligible Professionals

This section states that certain “hospital-based eligible professionals are not eligible for the Medicare incentives payments” and may not be eligible for Medicaid incentives based on the “hospital setting” as defined under current Medicare reimbursement policy and based on an assumption that these professionals significantly utilize the hospital EHR rather than their own (pp. 44439–42).

On April 15, 2010, President Obama signed into law the Continuing Extension Act of 2010 (Pub. L. 111–157), which applies to both the Medicare and Medicare EHR incentives for EPs. The law modifies the definition of what hospital-based eligible providers would become ineligible to receive an incentive payment if more than 90 percent of their services are provided in the following place of service for HIPAA standard transactions: 21—Inpatient Hospital, 23—Emergency Room. The NPRM stated that ineligible providers included those that provided services in inpatient, outpatient, and emergency rooms. The final rule removes “outpatient” from the definition.

Stage 1 criteria for hospitals apply only to inpatient settings, leading CMS to raise a concern that hospital investment in their outpatient primary care sites is “likely to lag behind their investment in their inpatient EHR systems.” These concerns were alleviated by the removal of this setting for ineligible providers in the final rule.

Interaction with Other Programs—e-Prescribing

CMS notes that the incentive program conflicts with the e-prescribing incentive program under MIPAA, the Medicare Improvements for Patients and Providers Act (p. 44442). Eligible providers under Medicare who receive the EHR incentive payment will therefore be ineligible to receive the e-prescribing incentive payment during the same period.

Paper 3 in the series continues this overview of the meaningful use program with a look at the incentive payments and program requirements.

References

American Recovery and Reinvestment Act of 2009. Public Law 111-5. Available online at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.txt.pdf.

Centers for Medicare and Medicaid Services. “Medicare and Medicaid Programs; Electronic Health Record Incentive Program; Final Rule.” *Federal Register* 75, no. 144 (July 28, 2010): 44314–588. Available online at <http://edocket.access.gpo.gov/2010/pdf/2010-17207.pdf>.

Continuing Extension Act of 2010. Public Law 111-157. Available online at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4851enr.txt.pdf.

Department of Health and Human Services. “Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology; Final Rule.” *Federal Register* 75, no. 144 (July 28, 2010): 44590–654. Available online at <http://edocket.access.gpo.gov/2010/pdf/2010-17210.pdf>.