



Alerts

CMS Issues Proposed Revisions for Stages 1 and 2 Meaningful Use Standards

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Health Law Alert

The Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) recently published proposed rules that move its Electronic Health Records Incentive Program to the final stage, or Stage 3. In response to those changes, on April 15, 2015, CMS also issued proposed revised rules for the earlier stages that are currently in effect, with the goal of better aligning the current state of electronic health records with the eventual end state. Proposed comments are due by June 15, 2015.

Overview

As a reminder, implementing regulations for CMS's Electronic Health Record Incentive Program are designed to become more stringent over time, with the goal being providers progressing from simply adopting electronic health records (EHR) to eventually using advanced EHR. Eligible medical professionals, hospitals, and critical access hospitals ("providers") must meet the objectives and measures established by the regulations in order to receive incentive payments and not suffer from downward payment adjustments under Medicare.

These objectives and measures are divided into three stages. Stage 3 does not begin until 2017, and it does not become mandatory until 2018. For a discussion of the proposed Stage 3 meaningful use rules, see [Hinshaw's previous alert](#).

Stages 1 and 2 are currently in effect. CMS refers to the proposed modifications to Stage 1 and Stage 2 as "Modified Stage 2." Modified Stage 2 seeks to better align the current rules with the future Stage 3 end state.

Reporting Period Changes

The rules proposed for Modified Stage 2 change the EHR Incentive Program reporting periods. All participants will now report on the calendar year. Previously, the reporting period for Eligible Hospitals and Critical Access Hospitals aligned with the federal fiscal year, while the period for Eligible Professionals was aligned with the calendar year. Additionally, in order to allow time to adjust to the changes found in the Modified Stage 2 rules, the EHR Incentive Program reporting period for 2015 is reduced to any continuous 90-day period in the 2015 calendar year.

Meaningful Use Changes

Modified Stage 2 also restructures the organization of meaningful use measurements. To demonstrate Meaningful Use of EHR, providers must attest that they use certified EHR technology and that they satisfy the applicable Meaningful Use objectives.

CMS removed a number of objectives for being redundant, duplicative, or "topped out". A "topped out" objective is a former standard with implementation and execution so thorough that it is no longer meaningful to collect and report on the measures. The removed objectives include former menu and core objectives related to demographics, vital signs, smoking status, clinical summaries, structured lab results, patient lists, patient reminders, summaries of care, electronic notes, imaging results, and family health histories. CMS points out that the removal of these measures as objectives does not mean that providers should cease using EHRs in these areas, only that they no longer must report them.



In the new proposed structure, CMS removes the distinction between menu and core objectives. Instead, there are now nine core objectives for Eligible Providers. There are eight core objectives for Eligible Hospitals and Critical Access Hospitals. The new objective categories found in Modified Stage 2 closely resemble those found in the proposed Stage 3 rules, although the threshold to meet each objective is lower than found in Stage 3. The categories are titled: Protect Electronic Health Information, Clinical Decision Support, Computerized Provider Order Entry, Electronic Prescribing, Summary of Care, Patient Specific Education, Medication Reconciliation, Patient Electronic Access, Secure Electronic Messaging, and Public Health and Clinical Data Registry.

For a provider whose first year of Meaningful Use is 2014 or 2015, most objectives in the Modified Stage 2 rules include alternate exclusions and specifications for 2015 reporting. As an example of these Stage 1 exclusions, providers in this situation may report compliance with the Modified Stage 2 objectives by complying with the older Stage 1 measures.

Objective Changes

Two particular changes found in the Modified Stage 2 objectives stand out.

First, the objectives contain a significant modification of patient engagement measures in the categories of Patient Electronic Access and Secure Electronic Messaging. Previously, providers have expressed frustration with having their compliance measured by the actions of their patients. Modified Stage 2 proposes to change three measures in this area from being percentage-based measures to binary (yes/no) measures, with the stated goal being the emphasizing of system capability.

Second, all public health reporting objectives are consolidated into one objective that mirrors the structure in Stage 3. The key difference between the stages is that Modified Stage 2 requires providers to meet fewer of the public health objective measures.

The proposed Modified Stage 2 rules contain many variables; exactly what is required of a provider is fact-specific and depends in part on the provider's status, the provider's Meaningful Use stage for 2015, and whether any exemptions apply. While complex, providers can refer to the chart provided by CMS at Table 6, at [80 Fed. Reg. 20370](#).