Update: Health Information Technology – Adoption Incentives

By Devi Mehta

Note: The Affordable Care Act makes no major revisions to provisions of the American Recovery and Reinvestment Act (ARRA) of 2009 that aim to move the nation toward a national health information policy and create incentives for the adoption and meaningful use of health information technology (HIT). However, because the adoption and use of HIT is foundational to the implementation of many aspects of health reform, this entry updates a previous entry on adoption incentives for electronic health records.

Introduction

A previous Implementation Brief discussed the electronic health record (EHR) incentive program enacted by the HITECH Act, which is part of ARRA. Stage 1 of that program began in 2011 and the Centers for Medicare and Medicaid Services (CMS) reports that through July 2012, more than $6 billion in Medicare and Medicaid incentive payments had been made to 132,511 physicians and hospitals that demonstrated meaningful use of EHRs. On August 23, 2012, CMS published a final rule on the Stage 2 Meaningful Use criteria that eligible professionals (EPs), eligible hospitals and critical access hospitals (CAHs) must meet to qualify as meaningful users of electronic health records (EHRs) and receive incentive payments under the Medicare and Medicaid programs. This final rule builds upon the Stage 2 proposed rule, released on March 7, 2012. The Stage 2 final rule also revises certain Stage 1 criteria, which were finalized in the July 28, 2010 final rule. Stage 1 of the incentive program was designed to encourage providers to move key clinical data into an electronic format, and focused on establishing the functionalities of a certified EHR system. With the final rule, CMS continues its incremental approach to continuing this transitional process and strikes a balance between stakeholders calling for Stage 2 to require demonstrated improvements in care as a result of EHR use and those seeking more flexibility in the rules, with incentives simply to acquire EHR technology.

Stage 2 Final Rule

Changes to Stage 1 of the Program

A number of the changes CMS made from Stage 1 to Stage 2 reflect the need to reduce the burden of meeting the meaningful use criteria on EPs, eligible hospitals and CAHs. Specifically:
- Stage 2 requirements are delayed from 2013 until 2014.
- Providers have a 3-month reporting period for EHR attestation rather than a full year.

1 http://www.healthreformgps.org/resources/health-information-technology-adoption-incentives/
• In order to avoid unnecessary confusion, the final rule eliminates the reporting of clinical quality measures as a core objective and instead incorporates it into the definition of a meaningful EHR user.9
• CMS adds 12 children’s hospitals to be eligible to participate in the Medicaid EHR incentive program in payment year 2013.10

Stage 2 Meaningful Use Objectives and Measures

The Stage 2 final rule also strengthens patient engagement, patient access to health information, and sharing health information across providers. In particular:

• The final Stage 2 rule makes the ability to view online, download, and transmit health information a core objective for Stage 2.11 The rule requires more than 50% of all unique patients seen by the EP to be provided electronic access to their health information within four business days, and more than 5% of all unique patients seen by the EP to be able to view, download, or transmit their health information to a third party.12
• The Stage 2 final rule adds a core objective for EPs requiring secure electronic communication between the provider and the patient for 5% of patients.13
• CMS lowers the threshold in the proposed rule of 65% to 50% of transitions that the EP, eligible hospital or CAH that transitions or refers their patient must provide a summary of care record for.14
• The final rule adds two components to the summary of care record requirements, which require recording care plans for at least 10% of care transitions and recording team members and the primary care provider for 10% of patients.15

In order to achieve meaningful use, a provider or entity must satisfy a requisite number of core objectives and may choose the menu objectives to meet.16 The final rule requires EPs to satisfy (or qualify for an exclusion of) 17 core objectives and 3 out of 6 menu objectives, and eligible hospitals and CAHs to satisfy or meet an exclusion for 16 core and 3 out of 6 menu objectives.17 Because Stage 2 builds on the infrastructure created by Stage 1, CMS increases the threshold levels for certain measures, such as Computerized Provider Order Entry (CPOE),18 electronic prescribing,19 and the successful reporting of demographic data.20

Mandatory Public Health Objectives

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10 Id.
14 Id.

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• CMS finalized core measures, such as the capability to successfully submit data electronically to immunization registries or other information systems, the ability to submit electronic reportable laboratory results to public health agencies, and the ability to electronically submit syndromic surveillance data to public health agencies.

• CMS requires automatic tracking of medications with an electronic medication administration record (eMAR) for more than 10% of medication orders for EPs, eligible hospital or CAH’s inpatient or emergency department.

Clinical Quality Measures Reporting

The Medicare and Medicaid EHR incentive programs require EPs, eligible hospitals, and CAHs to report on specified clinical quality measures (CQMs). The final rule intends to reduce the administrative burden of quality reporting by aligning quality measurement and reporting among the various CMS programs, such as Medicare, state Medicaid rules, Physician Quality Reporting System, the Children’s Health Insurance Program Reauthorization Act, Accountable Care Organizations, dual eligibles demonstrations, and other Affordable Care Act measures.

In order to meet the Stage 2 final rule criteria:

• EPs must submit nine core CQMs from three different National Quality Strategy domains out of 64 CQMs.
• Eligible hospitals and CAHs must submit 16 CQMs from three National Quality Strategy domains out of 29 CQMs.
• CMS recommends a core set of nine CQMs for pediatric populations.

ONC Final Rule

The Office of the National Coordinator for Health Information Technology also released its final rule for certification and standards for electronic health records on August 23, 2012. The rule highlights ONC’s emphasis on reduced regulatory burdens, increased flexibility, improved patient safety, enhanced patient engagement, and increased EHR interoperability. The final rule revises the definition of certified EHR technology needed to meet meaningful use, allowing providers in the EHR reporting period before 2014 to choose and customize their EHR technology to what works best for their practice and patients by adopting EHR technology certified to 2011

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31 Standards and Certification Criteria Final Rule. 77 Fed. Reg. 54164

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standards, 2014 standards, or a mix of the two.\textsuperscript{32}

**What's Next**

Payments will be made under Stage 2 meaningful use standards beginning in 2014. Stage 3 is set to be proposed in late 2013 or 2014\textsuperscript{33} and will go into effect in 2016 for EPs, eligible hospitals, and CAHs.\textsuperscript{34} The Stage 3 rule will focus on improving outcomes, such as patient safety, decision support for high priority health conditions, patient access to self-management tools, and patient centered health information exchange.\textsuperscript{35} Stage 3 will build on Stage 2 by increasing the thresholds for the core objectives, addressing items CMS left unaddressed in Stage 2, and measuring achievement of the ultimate goal, improved health outcomes.\textsuperscript{36}

*Note: Further updates and analysis of health information laws and regulations, including HITECH can be found at [www.healthinfolaw.org](http://www.healthinfolaw.org). A longer analysis of the Stage 2 Meaningful Use Rule is available here.*

\textsuperscript{32} Standards and Certification Criteria Final Rule. 77 Fed. Reg. 54257-60


\textsuperscript{34} Stage 2 Final Rule; 77 Fed. Reg. 53973

\textsuperscript{35} Id.

\textsuperscript{36} Stage 2 Final Rule; 77 Fed. Reg. 53973-74