

Regulatory Review: Incentives to Meaningfully Use Electronic Health Records

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The American Recovery and Reinvestment Act (ARRA) of 2009 establishes an incentive payment program to eligible professionals (EP) and eligible hospitals that participate in the meaningful use of the certified electronic health record (EHR) technology. The Centers for Medicare and Medicaid Services (CMS) published its proposed rule in the January 13, 2010 Federal Register, specifying the details surrounding how EPs and eligible hospitals can receive incentive payments. Furthermore, in the same January 13, 2010 Federal Register issue, the Office of the National Coordinator for Health Information Technology (ONC) published its interim final rule regarding the criteria necessary to achieve meaningful use.

Radiologists' Eligibility in the Incentive Program

So long as a physician is not hospital based, he or she is eligible to participate in the incentive payment program for EPs. To be considered hospital based (and not eligible), a physician must provide more than 90% of the services within a Place of Service (POS) 21 (inpatient hospitals), 22 (outpatient hospital), or 23 (emergency room hospital). Hospitals are defined by these POS codes, as well.

Hospital based radiologists are not permitted to participate in the incentive program as CMS assumes that these professionals utilize and furnish the hospital's EHR and not their own. Non-hospital based radiologists, however, are eligible to participate in the incentive payment program.

What Constitutes "Meaningful Use"?

To qualify for the incentive program, an EP or eligible hospital must demonstrate a meaningful use of EHR technology. As provided in the proposed rule, Congress has defined "meaningful use" to include three requirements: "(1) Use of certified EHR technology in a meaningful manner . . . ; that the certified EHR technology is connected in a manner that provides for the electronic exchange of health information to improve the quality of care; and (3) that, in using certified EHR technology, the provider submits to the Secretary information on clinical quality measures and such other measures selected by the secretary."

CMS will be releasing information in three stages regarding

meaningful use and what constitutes meaningful use. Stage 1 aims at capturing health information electronically, using that captured information to track clinical conditions, communicating the captured information for coordinating care and initiating the reporting of clinical quality measures and public health information. Stage 1 begins in 2011. Stage 2 aims at expanding Stage 1 to use health information technology for continuous quality improvements in a number of areas, including disease management, clinical decision support, transitions in care, quality measurement and research, and medication management. Finally, Stage 3 aims at improving the quality, safety, and efficiency in healthcare with a focus on decision support for national high priority conditions, patient access to self management tools, access to comprehensive patient data, and improving population health outcomes.

How Radiologists Meaningfully Use EHRs to Receive Incentive Payments

Radiologist EPs will be required to demonstrate all applicable measures to receive incentive payments. CMS has divided the measures into two categories: health IT functionality measures and clinical quality measures. Furthermore, the clinical quality measures are divided into two groups: core groups and specialty groups—which include a specialty group for radiologists.

How Radiologists Report and Demonstrate Meaningful Use

For a radiologist EP, to qualify for an incentive payment under Medicare for a payment year, the radiologist must meaningfully use EHR technology during that reporting period of that relevant payment year. Furthermore, incentive payments are limited to 75% of the total Medicare fee schedule compensation rate. To demonstrate meaningful use during the reporting period, CMS proposes, for Stage 1, that EPs submit an attestation statement that includes the following information: that information pertaining to the clinical quality measures was gathered from an identified certified EHR; that to the best of the EP's knowledge, the information is accurate; patient information submitted for all patients to whom the quality measure applies; the NPT and TIN of the EP, as well as the specialty group—radiology—of the submitted quality measure; the numerators, denominators, and exclusions for all of the clinical

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quality measures reported and all of the patients irrespective of the third party payor, if any; and the beginning and end dates when the numerators, denominators, and exclusions are applicable.

For those EPs that have exemptions, they must submit an attestation that their exemption does not apply to the scope of practice of the EP. By way of clarification, if an EP is exempt

from reporting core measures, that EP would have to submit an attestation that the core measures do not apply to the scope of the EP's practice.

Conclusion

This proposed guidance was published on January 13, 2010. CMS allows for a 60 day comment period in which comments are due on March 15.