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HHS Issues Two Publications Relating to Electronic Health Record Technology

On January 13, 2010, the Department of Health and Human Services (HHS) published a Notice of Proposed Rulemaking (NPRM) and a separate Interim Final Rule (IFR), both relating to adoption and Meaningful Use of Electronic Health Record (EHR) technology. The NPRM outlines the provisions of the Medicare and Medicaid EHR Incentive Programs, while the IFR specifies the adoption of an Initial Set of Standards and Certification Criteria for EHR technology.

The Proposed Rule would implement provisions of the American Recovery and Reinvestment Act (ARRA) to provide incentive payments to eligible professionals and hospitals participating in Medicare and Medicaid programs that adopt and meaningfully use certified EHR technology. It specifies the initial criteria an eligible professional or hospital must meet in order to qualify for the incentive payment; calculation of the incentive payment amounts; payment adjustments for covered services provided by eligible professionals and hospitals failing to meaningfully use certified EHR technology; and other program participation requirements.

The Proposed Rule for the Incentive Programs proposes a phased approach to the use of certified EHR technology. The proposed criteria for Stage 1, which begins in 2011, focus on electronically capturing health information in a coded format, using that information, communicating that information, and initiating the reporting of clinical quality measures and public health information. Stage 2 would expand upon the Stage 1 criteria in the areas of disease management, clinical decision support, medication management, support for patient access to their health information, transitions in care, quality measurement and research, and bi-directional communication with public health agencies. Stage 3 would focus on achieving improvements in quality, safety and efficiency, focusing on decision support for national high priority conditions, patient access to self management tools, access to comprehensive patient data, and improving population health outcomes.

The IFR adopts an initial set of standards, implementation specifications, and certification criteria, as required by section 3004(b)(1) of the Public Health Service Act. This IFR represents the first step in an incremental approach to adopting standards, implementation specifications, and certification criteria to enhance the interoperability, functionality, utility, and security of health information technology and to support its meaningful use. The certification criteria adopted in this initial set establish the capabilities and related standards that certified EHR technology will need to include in order to, at a minimum, support the achievement of the proposed meaningful use Stage 1 (beginning in 2011) by eligible professionals and eligible hospitals under the Medicare and Medicaid EHR Incentive Programs.

As stated above, the first Stage of Meaningful Use of EHR Technology will begin in 2011, with Stages 2 and 3 following in 2013 and 2015. A separate regulation describing the process of obtaining certification is also expected later this year.

Both the NPRM and IFR have a 60 day public comment period that closes at 5 p.m. on March 15, 2010. The MHS will be submitting comments on both the NPRM and IFR. If you have comments that you would like to be considered and included as part of the MHS response, please send them to hipaamail@tma.osd.mil by close of business on Friday, February 12, 2010. Comments will be consolidated, reconciled and submitted to HHS by the March 15, 2010 deadline.

The NPRM can be accessed at: <http://edocket.access.gpo.gov/2010/pdf/E9-31217.pdf>

The IFR can be accessed at: <http://edocket.access.gpo.gov/2010/pdf/E9-31216.pdf>

