

Health Information Compliance Alert

Meaningful Use: Good News: CMS Feels Your MU Pain

But don't expect to escape payment penalties if you're noncompliant.

The Centers for Medicare & Medicaid Services (CMS) wants to ease your reporting burdens for the Medicare and Medicaid Electronic Health Record (EHR) Incentive Program. But you're still facing payment reductions if you aren't meeting the meaningful use (MU) requirements.

First, the good news: On Jan. 29, CMS announced that it plans to modify MU requirements to reduce the reporting burdens on providers, beginning in 2015. CMS estimates that more than 400,000 eligible providers have adopted or are meaningfully using EHRs to-date.

Enjoy a Drastically Shortened Reporting Period

CMS announced that it would issue a new rule that would respond to providers' concerns about software implementation, information exchange readiness, and other related concerns. Specifically, CMS is considering proposals to:

1. Realign hospital EHR reporting periods to the calendar year, which would allow eligible hospitals more time to incorporate the 2014 Edition software in their workflows and better align with other CMS quality programs.
2. Modify other program aspects to match long-term goals, reduce complexity, and decrease providers' reporting burdens.
3. Shorten the EHR reporting period in 2015 from a full year to 90 days to accommodate these changes.

Although CMS has yet to codify these changes in a proposed rule, and says it will do so this spring, the changes "include a much desired ease of the program requirements in 2015," noted attorney **Elana Zana** in a Jan. 29 health law blog posting for **Ogden Murphy Wallace Attorneys**.

"To clarify, we are working on multiple tracks right now to realign the program to reflect the progress toward program goals and be responsive to stakeholder input," Deputy Administrator for Innovation & Quality and CMS Chief Medical Officer **Patrick Conway, MD** said in the Jan. 29 announcement.

Keep in mind: "These proposed modifications will not be forthcoming in the Stage 3 proposed rule, which is expected to be released in early March," Zana pointed out. CMS also proposes to limit the scope of the Stage 3 proposed rule to criteria for MU in 2017 and beyond.

Brace Yourself for Reimbursement Penalties

Unfortunately, these upcoming changes won't mitigate the fact that you're facing reductions in your Medicare reimbursement if you're not meeting the EHR Incentive Program's MU requirements.

Background: Back in October 2014, CMS extended the hardship exception deadline until Nov. 30, 2014, which allowed you to avoid a payment adjustment in 2015, explained healthcare attorney **Carolyn Metnick** in Jan. 26 analysis for the law firm **Akerman LLP**. "The incentive structure built into the EHR Incentive Program states that healthcare providers that fail to meet the meaningful use requirements are subject to penalties in the form of payment adjustments."

Payment reductions began on Jan. 5 for physicians — those who failed to adopt an EHR system and meet the MU requirements in 2014 face a 1-percent reduction in their 2015 Medicare payments. Physicians who failed to meet both the MU and electronic prescribing program requirements in 2014 face a 2-percent reduction this year. An estimated

285,000 physicians will experience a payment reduction.

For hospitals, the payment reductions began on Oct. 1, 2014, with about 200 hospitals that failed to participate in the MU program beginning to receive fewer Medicare dollars per patient, according to Metnick. "In 2015, hospitals face a 25-percent reduction, with the payment adjustment increasing to 50 percent in 2016." The payment adjustments apply to the percentage increase to the Inpatient Prospective Payment System (IPPS) payment rate.

Look ahead: "The payment adjustments announced by CMS signals that healthcare providers may have a steeper hill to climb in order to meet the meaningful use requirements in later stages," Metnick warned. "Given CMS' enforcement of payment adjustments in Stage 1, healthcare providers should brace for challenges from more binding requirements in Stage 2 and Stage 3."

Resource: For more information about the EHR Incentive Programs, go to www.cms.gov/EHRIncentivePrograms.