

## HHS Publishes Proposed Rule for Meaningful Use of Electronic Health Records Stage 2

The HHS Centers for Medicare & Medicaid Services (CMS) announced a proposed rule on February 23, 2012, with CMS's plans for Stage 2 of the Medicare and Medicaid Electronic Health Record (EHR) "meaningful use" incentive programs created by the Health Information Technology for Economic and Clinical Health (HITECH) Act. The proposed rule builds on the Stage 1 criteria for eligible providers (EPs), eligible hospitals, and critical access hospitals (CAHs), and proposes to specify the Stage 2 criteria that such entities must meet in order to qualify for an incentive payment. CMS would retain the structure of core and menu objectives of Stage 1, and proposes that EPs be required to meet, or qualify for exclusions to, 17 core objectives and 3 of 5 menu objectives. Eligible hospitals and CAHs would be required to meet, or qualify for exclusions to, 16 core objectives and 2 of 4 menu objectives. Some proposed new objectives would have greater applicability to specialty providers. EPs, eligible hospitals, and CAHs would continue to be required to report on clinical quality measures in order to qualify for incentive payments. CMS also proposes to revise certain Stage 1 requirements, as well as certain other criteria for the incentive program.

The proposed rule also would extend for one year the applicability of Stage 1 criteria for those EPs, eligible hospitals, and CAHs that attested to meaningful use for the first time in 2011. The July 2010 final rule required that entities that first attested to Stage 1 meaningful use in 2011 would have to begin using Stage 2 criteria in 2013. However, consistent with CMS's November 2011 announcement, the proposed rule would delay Stage 2 criteria for such providers until 2014 and, thus, would provide additional time for vendors to develop certified EHR technology to meet such criteria.

The HITECH Act requires Medicare payment adjustments beginning in 2015 for entities that fail to make meaningful use of EHRs. CMS proposes that any Medicare EP or hospital that demonstrates meaningful use in 2013 would avoid such a penalty in 2015, as well as any Medicare provider that first demonstrates meaningful use in 2014, as long as they attest to meaningful use by July 3, 2014 (eligible hospitals) or October 3, 2014 (EPs). CMS also proposes certain exceptions to the payment adjustments/penalties.

The proposed rule, which is scheduled for publication in the March 7, 2012 Federal Register, currently may be found at the following web address: [http://www.ofr.gov/OFRUpload/OFRData/2012-04443\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-04443_PI.pdf). The deadline for the submission of comments is 60 days after the date of publication.