

**U.S. House and Senate Notification**  
**Tuesday, July 13, 2010**

**To: Congressional Health Staff**

**From: Amy Hall**  
**Director, Office of Legislation**  
**Centers for Medicare & Medicaid Services**

**Re: Secretary Sebelius Announces Final Rules To Support ‘Meaningful Use’ of Electronic Health Records**

The U.S. Department of Health and Human Services Secretary Kathleen Sebelius today announced final rules to help improve Americans’ health, increase safety and reduce health care costs through expanded use of electronic health records (EHR).

Under the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, eligible health care professionals and hospitals can qualify for Medicare and Medicaid incentive payments when they adopt certified EHR technology and use it to achieve specified objectives. Eligible professionals may receive as much as \$44,000 under Medicare and \$63,750 under Medicaid, and hospitals may receive millions of dollars for implementation and meaningful use of certified EHRs under both Medicare and Medicaid.

One regulation, issued by the Centers for Medicare & Medicaid Services (CMS), defines the minimum requirements that providers must meet through their use of certified EHR technology in order to qualify for the payments. The other rule, issued by the Office of the National Coordinator for Health Information Technology (ONC), identifies the standards and certification criteria for the certification of EHR technology, so eligible professionals and hospitals may be assured that the systems they adopt are capable of performing the required functions.

The CMS rule announced today finalizes a proposed rule issued on Jan, 13, 2010. The final rule includes modifications that address stakeholder concerns while retaining the intent and structure of the incentive programs. In particular, while the proposed rule called on eligible professionals to meet 25 requirements (24 for hospitals) in their use of EHRs, the final rule divides the requirements into a “core” group of requirements that must be met, plus an additional “menu” of procedures from which providers may choose. This “two track” approach ensures that the most basic elements of meaningful EHR use will be met by all providers qualifying for incentive payments, while at the same time allowing latitude in other areas to reflect providers’ needs and their individual path to full EHR use.

Key changes in the final CMS rule include:

(1) Greater flexibility with respect to eligible professionals and hospitals in meeting and reporting certain objectives for demonstrating meaningful use. The final rule divides the objectives into a “core” group of required objectives and a “menu set” of procedures from

which providers may choose any five to defer in 2011-2012. This gives providers latitude to pick their own path toward full EHR implementation and meaningful use.

(2) An objective of providing condition-specific patient education resources for both EPs and eligible hospitals and the objective of recording advance directives for eligible hospitals, in line with recommendations from the Health Information Technology Policy Committee.

(3) A definition of a hospital-based EP as one who performs substantially all of his or her services in an inpatient hospital setting or emergency room only, which conforms to the Continuing Extension Act of 2010.

(4) Under Medicaid, CAHs are included in the definition of acute care hospital for the purpose of incentive program eligibility.

To read the Press Release issued on today's announcement, visit:

[http://www.cms.gov/apps/media/press\\_releases.asp](http://www.cms.gov/apps/media/press_releases.asp). For Fact Sheets with additional details on the CMS final rule, visit: [http://www.cms.gov/apps/media/fact\\_sheets.asp](http://www.cms.gov/apps/media/fact_sheets.asp). To learn more about the Medicare and Medicaid EHR incentive programs, visit the CMS-dedicated website to this program: <http://www.cms.gov/EHRIncentivePrograms>.

The CMS's final rule is available at: [http://www.ofr.gov/OFRUpload/OFRData/2010-17207\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2010-17207_PI.pdf). If you have questions about the CMS proposed rule, please contact the CMS Office of Legislation.

A technical fact sheet on ONC's standards and certification criteria final rule is available at <http://healthit.hhs.gov/standardsandcertification>. If you have questions about the ONC interim final rule, please contact the HHS Office of the Assistant Secretary for Legislation.