

# Overview of the Meaningful Use Final Rule

On July 28, 2010, the Centers for Medicare and Medicaid Services (CMS) published the final rule on the “meaningful use” EHR incentive program. On the same day, the Office of the National Coordinator for Health Information Technology (ONC) published a companion final rule describing the standards, specifications, and certification criteria for EHRs that qualify for the meaningful use program. Together, these two documents make up the basis for the incentive program called for under the American Recovery and Reinvestment Act of 2009 (ARRA).

This is the first paper in a series in which AHIMA takes a closer look at the incentive program and its impact on the health information management profession and on the healthcare providers that choose to participate in this volunteer program. It is an update of a series on the proposed rules, originally published in January and February of this year. The brief papers focus on the meaningful use final rule, with references to the certification criteria.

This first paper offers an introduction to and general overview of the meaningful use rule. The second and third papers provide greater detail on the final rule’s requirements. (A list of all papers in the series appears at the end of this paper.)

## Key Descriptions and Dates

Rule Title	Description	Author	Publication Date	Effective Date
“Medicare and Medicaid Programs; Electronic Health Record Incentive Program; Final Rule”	Final rule on the meaningful use incentive program, describing the criteria providers and hospitals must meet to receive incentive payments	Centers for Medicare and Medicaid Services	July 28, 2010 (75FR44314)	September 27, 2010
“Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology; Final Rule”	Final rule outlining the initial standards, implementation specifications, and certification criteria for EHRs to achieve meaningful use	Office of the National Coordinator for Health Information Technology	July 28, 2010 (75FR44590)	August 27, 2010

## **Background on Meaningful Use**

CMS began rulemaking on the meaningful use program with a notice of proposed rulemaking (NPRM) published January 13, 2010. CMS's intent in releasing an NPRM was to solicit comments on its proposal, which were due in March. After receiving and reviewing more than 2,000 comments, CMS proceeded to a final rule, which was officially published on July 28, 2010.

The rulemaking results from provisions in the American Recovery and Reinvestment Act (ARRA). Section 2, Division B, Title IV ("Medicare and Medicaid Health Information Technology; Miscellaneous Medicare Provisions") established a Medicare and Medicaid EHR incentive program for hospitals and providers that became "meaningful users" of EHRs. ARRA established many of the program's date-specific requirements, and CMS in turn attempted to work its regulation requirements within the time frame dictated by Congress.

The final rule also cites the HITECH Act within ARRA (Division A, Title XIII – "Health Information Technology" or "Health Information Technology for Economic and Clinical Health Act"), because much of the technical support providers may need in order to receive incentives for meaningful use is included here.

## **The Certification Criteria**

ARRA specifies that a condition of meaningful use is the use of a certified EHR system. It charged the Department of Health and Services with establishing the certification criteria, which the department is managing through ONC.

ONC's final rule was also published in the *Federal Register* on July 28, 2010. This rule was initially published as an "interim final rule" and allowed for some modifications before the effective date took hold 30 days after publication in order to meet the ARRA statute requirement. The effective date for the final rule is August 27, 2010. ONC accepted comments until mid-March.

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Final rules follow a standard format, and the meaningful use final rule accordingly begins with a description of the regulation's origin and a list of other regulations that might be affected—in this case, legislation and regulation that concern payments made under the federal Medicare and Medicaid programs (pp. 44315–17).

A section-by-section description of the provisions follows, including CMS's analysis of and response to public comments on the individual provisions (beginning on page 44317). Within this section are a description are definitions, an outline of the stages of meaningful use criteria by payment year, reporting requirements for clinical quality measures (one of the goals Congress desired in the program), criteria and reporting for meaningful use, eligibility requirements for both hospitals and individual providers, and how CMS will oversee the disbursement of the incentive payments.

Additionally, CMS describes how the Medicare program will reduce program entitlement payments to providers if they have not achieved meaningful use by the deadlines set by Congress.

Because Medicaid payments are made through the states, the final rule also describes how CMS will work with the states to administer the incentives, the duties and obligations of the states, and the potential differences in how the state Medicaid program might work from that of CMS. This potential difference in rules and process between Medicare and Medicaid comes about from the ARRA provisions. Throughout rulemaking, CMS stressed its desire that the Medicaid programs not radically change the program from that which it proposed.

The incentive program includes reporting and attestation requirements for healthcare providers and states, and the final rule includes a separate section listing them (beginning p. 44318). In particular, the reporting and attestation requirements remained as proposed in the NPRM.

The final rule includes a regulatory impact analysis (pp. 44544–63). However, CMS stresses the difficulty of predicting the impact since the incentives are optional—no provider is forced to participate in the program or to begin it at a set time. CMS notes other uncertainties, including the possibility that future rulemakings may change program standards and requirements.

Finally, the provisions of the final rule begin on page 44563.

AHIMA offers a detailed breakdown of the final rule on its Advocacy and Public Policy Web site, [www.ahima.org/advocacy/arrameaningfuluse.aspx](http://www.ahima.org/advocacy/arrameaningfuluse.aspx).

## **Responding to the Rule**

The final rule does differ from the proposed one, in part due to the thousands of public comments CMS received. The final rule reflects CMS attempt to balance the program requirements defined by Congress with the state of the current EHR environment. The intent, according to David Blumenthal, head of ONC, was to create objectives that were both “ambitious” and “achievable.”

With the program provisions within the final rule now final, hospitals and providers can begin determining the direction of their initiatives and establishing their priorities. Hospitals and providers may begin the program January 2011, with the first payments expected to be made in May. This is a time to shape the future and plan for many long-term goals.

## **The AHIMA White Paper Series**

- Paper 1: Overview of the final rule
- Paper 2: Meaningful Use—Provider Requirements
- Paper 3: Meaningful Use—Incentive Payments and Program Requirements
- Paper 4: Meaningful Use and Certification
- Papers 5a/b: Measure Reporting: Health IT Functionality Measures for Eligible Providers/Hospitals

- Papers 6a/b: Measure Reporting: Clinical Quality Measures for Eligible Providers/Hospitals
- Paper 7: Process for Demonstrating Meaningful Use
- Paper 8: Getting Started on Meaningful Use

Additional ARRA resources are available on the AHIMA Advocacy and Public Policy Web site, [www.ahima.org/advocacy/arrameaningfuluse.aspx](http://www.ahima.org/advocacy/arrameaningfuluse.aspx), and the *Journal of AHIMA* Web site, <http://journal.ahima.org>.

## References

- American Recovery and Reinvestment Act of 2009. Public Law 111-5. Available online at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h1enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.txt.pdf).
- Centers for Medicare and Medicaid Services. “Medicare and Medicaid Programs; Electronic Health Record Incentive Program; Final Rule.” *Federal Register* 75, no. 144 (July 28, 2010): 44314–588. Available online at <http://edocket.access.gpo.gov/2010/pdf/2010-17207.pdf>.
- Department of Health and Human Services. “Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology; Final Rule.” *Federal Register* 75, no. 144 (July 28, 2010): 44590–654. Available online at <http://edocket.access.gpo.gov/2010/pdf/2010-17210.pdf>.