



**ONC EXERCISES ENFORCEMENT DISCRETION WITH RESPECT
TO IMPLEMENTATION OF RANDOMIZED SURVEILLANCE**

Program Guidance #17-02

Issued and Effective Date: September 21, 2017

The Department of Health and Human Services' Office of the National Coordinator (ONC) for Health Information Technology announces that it is exercising **enforcement discretion** with respect to the implementation of randomized surveillance by ONC Authorized Certification Bodies (ONC-ACBs). Regulatory requirements at 45 CFR 170.556(c)(2) dictate that ONC-ACBs conduct randomized in-the-field surveillance for, at a minimum, two percent of the health IT certifications they have issued. As of September 21, 2017, however, ONC is exercising enforcement discretion. ONC will not, until further notice, audit ONC-ACBs for compliance with randomized surveillance requirements or otherwise take administrative or other action to enforce such requirements against ONC-ACBs, nor will it consider lack of implementation of these requirements by an ONC-ACB to be a violation of its compliance requirements under 45 CFR 170.566, the Principles of Proper Conduct for ONC-ACBs, or good standing under the ONC Health IT Certification Program (Program).

This exercise of enforcement discretion will permit ONC-ACBs to devote their limited resources to certifying health IT to the 2015 Edition, which will support its greater availability for providers participating in the Centers for Medicare & Medicaid Services' Quality Payment Programs. It will also permit ONC-ACBs to focus on their ongoing responsibilities to conduct reactive surveillance (e.g., surveillance based on provider complaints), including in-the-field reactive surveillance of certified health IT.

ONC-ACBs should continue good faith execution of any active and ongoing randomized surveillance to ensure product compliance with the Program.