

# Chapter 5

## Medicare and Medicaid EHR Incentive Programs

### Meaningful Use Core Objectives that Address Privacy and Security

#### Meaningful Use

In the Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs (also called “Meaningful Use” Programs), the Centers for Medicare and Medicaid Services (CMS) set staged requirements for providers to demonstrate progressively more integrated use of EHRs and receive incentive payments for such use.

The first version (1.2) of this Guide discussed two of the Stage 1 core objectives that relate to privacy and security requirements. This updated Guide focuses on Stage 1 and Stage 2 core objectives that address privacy and security, but it does not address menu objectives, clinical quality measures, or Stage 3. Visit the [CMS Medicare and Medicaid EHR Incentive Programs web page](#)<sup>67</sup> for information about incentive payment year requirements.

#### Privacy in Meaningful Use

Simply stated, Meaningful Use privacy requirements address patients’ rights both to:

1. Have their health information protected from unauthorized access; and
2. Access their health information.

#### Security in Meaningful Use

The Meaningful Use security requirements protect Protected Health Information (PHI) against unauthorized access. The program requires Stage 1 and 2 core objectives that can be found on the [CMS website](#).<sup>67</sup>

<sup>67</sup> <https://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/>

<sup>68</sup> <https://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/>

## General Overview of Stage 1 and Stage 2 Meaningful Use

Meaningful Use<sup>69</sup> must be demonstrated by:

- Using the capabilities of Certified EHR Technology (CEHRT) adopted by the U.S. Department of Health and Human Services (HHS) as standards, implementation specifications, and certification criteria (in the Office of the National Coordinator for Health Information Technology's Standards and Certification Criteria regulations),<sup>70</sup> and
- Meeting CMS-defined criteria through a phased approach based on anticipated technology and capabilities development.

To define meaningful use, CMS sought to balance the sometimes competing considerations of improving health care quality, encouraging widespread EHR adoption, promoting innovation, and avoiding imposing excessive or unnecessary burdens on health care providers.<sup>71</sup>

The Stage 1 Meaningful Use criteria, consistent with other provisions of Medicare and Medicaid law, focuses on:

- Electronically capturing health information in a structured format;
- Using that information to track key clinical conditions and communicating that information for care coordination purposes (whether that information is structured or unstructured, but in structured format whenever feasible);
- Implementing clinical decision support tools to facilitate disease and medication management;
- Using EHRs to engage patients and families; and
- Reporting clinical quality measures and public health information.<sup>72</sup>

The Stage 2 Meaningful Use criteria, consistent with other provisions of Medicare and Medicaid law, expanded upon the Stage 1 criteria to encourage the use of health information technology (health IT) for continuous quality improvement at the point of care and the exchange of information in the most structured format possible. Examples of such use include the electronic transmission of orders entered using Computerized Provider Order Entry (CPOE) and the electronic transmission of diagnostic test results (such as blood tests, microbiology, urinalysis, pathology tests, radiology, cardiac imaging, nuclear medicine tests, pulmonary function tests, genetic tests, genomic tests and other such data needed to diagnose and treat disease).<sup>73</sup>

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<sup>69</sup> <http://www.healthit.gov/policy-researchers-implementers/meaningful-use>

<sup>70</sup> 79 Federal Register (FR) 54429. See also the "ONC Fact Sheet: 2015 Edition Health IT Certification Criteria, Base EHR Definition, and ONC Health IT Certification Program Modifications Proposed Rule" at <http://www.healthit.gov/sites/default/files/ONC-Certification-Program-2015-Edition-Fact-Sheet.pdf>.

<sup>71</sup> 75 FR 44321.

<sup>72</sup> 75 FR 44321.

<sup>73</sup> 77 FR 64755.

To demonstrate Meaningful Use, providers must meet measures and report the use of their practices' EHRs to CMS via attestation. The Meaningful Use Programs define Eligible Professionals (EPs) as doctors of medicine or osteopathy, dental surgery or dental medicine, podiatric medicine, optometry, and chiropractic medicine.<sup>74</sup> Review the [CMS flow chart](#)<sup>75</sup> for assistance with determining if you are an EP and to determine whether to select Medicare or Medicaid to demonstrate Meaningful Use.

Both Meaningful Use [Stage 1](#)<sup>76</sup> and [Stage 2](#)<sup>77</sup> require participating providers to “attest” that they have met certain objectives and measures regarding the use of the EHRs for patient care. The attestation is effectively your confirmation or statement that your practice has met those requirements.

In the Medicare and Medicaid EHR Incentive Programs, specific Meaningful Use requirements incorporate many HIPAA privacy and security requirements for electronic PHI (ePHI). Basic cybersecurity practices are needed to protect the confidentiality, integrity, and availability of health information in the EHR system. These protections are essential whether the EHR is installed on a server in your office or hosted on your behalf by a developer over the Internet.



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<sup>74</sup> EPs may *not* be hospital-based. Hospital-based EPs are any provider who furnishes 90% or more of their services in a hospital setting (inpatient or emergency room).

<sup>75</sup> [http://cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/downloads/eligibility\\_flow\\_chart.pdf](http://cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/downloads/eligibility_flow_chart.pdf)

<sup>76</sup> [http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Meaningful\\_Use.html](http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Meaningful_Use.html)

<sup>77</sup> [http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Stage\\_2.html](http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Stage_2.html)