

# CMS Releases Notice on Meaningful Use, ONC Issues Certification Standards

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CMS and ONC released proposed and interim regulations on meaningful use and EHR certification late yesterday as the year wound down.

The Centers for Medicare and Medicaid Services released a 556-page a notice of proposed rulemaking defining the “meaningful use” of EHRs and describing the provisions governing the incentive programs. [*January 13 update:* official publication occurred in the [Federal Register](#) today.]

The program details, discussed and anticipated through much of the year, enable vendors and providers to begin working toward eligibility for EHR adoption and use incentives described in the American Recovery and Reinvestment Act. Payments to eligible providers begin in late 2010.

The Office of the National Coordinator for Health IT released an interim final rule describing related requirements and technical specifications for EHR technology. Providers must use certified EHRs to participate in the incentive program. The releases were announced in a joint CMS-ONC press conference late yesterday due to their close connection. [*January 13 update:* official publication occurred in the [Federal Register](#) today.]

ONC’s interim final rule will go into effect 30 days from its official publication in the [Federal Register](#). The CMS notice is a proposal, intended to solicit public comment before rulemaking progresses. Publication of both is expected by mid-January.

## Meaningful Use

CMS’s notice of proposed rulemaking (NPRM) defines the “meaningful use” of health IT and how providers will demonstrate their eligibility, a prerequisite for receiving the incentive payments for Medicare and Medicaid services that begin in late 2010 and continue to 2015. The rule also outlines the proposed payment methods.

The NPRM offers a single definition of meaningful use that would apply to professionals participating in both Medicare fee-for-service and the Medicare Advantage programs. CMS sought to harmonize the incentive program across both Medicare programs as well as Medicaid to the extent possible, said Jonathan Blum, director of the Center for Medicare Management, during yesterday’s press conference.

CMS proposes a phased approach to meaningful use, described as three stages. The first stage would focus on the electronic capture of data, the ability to track it, communicate it to other providers, and report quality measures and public health information. The NPRM lists each objective and its measures. Providers will prove their eligibility by attestation, reporting their performance on approximately two dozen measures represented by a mix of numerators and denominators and answers to yes/no questions. Meaningful use has to occur over a 90-day period only in stage 1.

The criteria are intended to be reasonable for today’s technology and the current provider experience, Blum said. The subsequent two phases will build on stage 1, adding stricter and more extensive criteria as the incentive program progresses.

The proposed rule offers a framework for these later stages, but Blum said that CMS will further define them as the industry learns from its experiences with stage 1.

In addition, CMS heeded recommendations made this summer by the Health IT Policy Committee to base the evolving criteria on “adoption year” rather than calendar year. This flexibility allows providers to enter the program in a staggered, “elevator” approach that accommodates those who may not be ready to join the program in the first year. Thus a provider who enters the program in 2012 would still use the stage 1 criteria and be eligible for the greatest incentive payments. Otherwise, it was felt that the increasingly strict criteria would discourage late adopters from ever joining.

Incentive payments may begin as soon as October 2010 to eligible hospitals. Providers will be eligible for payments as soon as January 2011.

Despite the intention to align Medicare and Medicaid as closely as possible, some differences are necessary, according to Cindy Mann, director of the Center for Medicaid and State operations, who also spoke at the press conference

Medicaid incentive payments will be made through the states, which must apply for grant monies. Thirteen states have been approved to date, she said, with several more pending. States may add additional meaningful use criteria of their own if they choose. In an effort to encourage more Medicaid providers to participate, providers can receive incentive payments without being meaningful users “right out of the gate,” she said. The NPRM describes additional differences.

[January 6: AHIMA has posted a summary and overview of the full NPRM [here](#).]

## EHR Certification

The certification criteria are intended to “put a floor under the capabilities of electronic health records and make certain they are capable of achieving meaningful use,” said David Blumenthal, head of ONC, during the press conference.

The standards revolve around four areas: vocabulary, content exchange, transport, and privacy and security. The rule describes standards formats for clinical summaries and prescriptions; terms to describe clinical problems, procedures, laboratory tests, medications, and allergies; and standards for the secure transportation of information via the Internet.

Each standard is pegged to meaningful use criteria from the CMS rule, and ONC tried to avoid requiring “nonessential” criteria to reduce the burden on vendors and users, Blumenthal said.

He described the criteria as iterative and “likely to change over time” as stage 2 and 3 of the incentive program evolve, as the market determines which standards are “most useful and usable,” and as technology changes.

The interim final rule describes the certification criteria only. A forthcoming regulation will define the process of accrediting organizations to certify EHR products against these criteria.

Both CMS and ONC will accept comments for 60 days from the date the rules are published. Blum and Blumenthal both said they expected final regulations “sometime next spring,” once the departments have had time to consider the public comments.

“We will take comments extremely seriously,” Blumenthal said.

Further information, including FAQs and instructions on submitting comments, is available through the Health and Human Services health IT [Web site](#).

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