Tri-State Regional Extension Center

# 2014 Meaningful Use Modifications Final Rule FAQ Sheet

## *Background:*

On August 29, 2014, the Centers for Medicare and Medicaid Services (CMS) released a final rule that allows eligible professionals (EPs) and eligible hospitals (EHs) some relief from the tight timelines resulting from implementing 2014 Edition Certified EHR Technology (CEHRT). Additionally, CMS revised the Stage 2 and Stage 3 timelines.

The text of the final rule is available at: https://www.federalregister.gov/articles/2014/09/04/2014-21021/modifications-to-the-medicare-and-medicaid-electronic-health-record-ehr-incentive-program-for-2014

## *When will the revised rule go into effect?*

The final rule was released on August 29, 2014, and goes into effect on October 1, 2014.

## *Who does this revised rule affect?*

The revised rule affects "EPs, eligible hospitals, and CAHs that are not able to fully implement 2014 Edition CEHRT for the 2014 reporting year due to delays in 2014 Edition CEHRT availability."

## *What effects will the revised rule have?*

EPs, EHs , and CAHs that could not fully implement 2014 CEHRT in time for a full attestation period are allowed to utilize 2011-Edition CEHRT, a combination of 2011-Edition and 2014-Edition CEHRT, or 2014-Edition CEHRT to attest to either the 2013 Stage 1, 2014 Stage 1, or 2014 Stage 2 Objectives and Measures , depending on their circumstances. (See chart on page 2 of this FAQ Sheet)

Another effect of the final rule is that Stage 3 of meaningful use has been delayed until 2017 for all EPs and EHs. The following chart describes what Stage EPs and EHs should attest to under the modifications:

| First Payment Year | Stage of Meaningful Use | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **2020** | **2021** |
| 2011 | 1 | 1 | 1 | 1 or 2* | 2 | 2 | 3 | 3 | TBD | TBD | TBD |
| 2012 | | 1 | 1 | 1 or 2* | 2 | 2 | 3 | 3 | TBD | TBD | TBD |
| 2013 | | | 1 | 1 | 2 | 2 | 3 | 3 | TBD | TBD | TBD |
| 2014 | | | | 1 | 1 | 2 | 2 | 3 | 3 | TBD | TBD |
| 2015 | | | | | 1 | 1 | 2 | 2 | 3 | 3 | TBD |
| 2016 | | | | | | 1 | 1 | 2 | 2 | 3 | 3 |
| 2017 | | | | | | | 1 | 1 | 2 | 2 | 3 |

* 3-month quarter EHR reporting period for Medicare and continuous 90-day EHR reporting period (or 3 months at State option) for Medicaid EPs. All providers in their first year in 2014 use any continuous 90-day EHR reporting period.

Source: Federal Register, pp 52926-7: http://www.gpo.gov/fdsys/pkg/FR-2014-09-04/pdf/2014-21021.pdf

***The Tri-State Regional Extension Center <u>strongly</u> recommends that you attest to your scheduled stage's Objectives and Measures, if you are able to do so!***

## *What effects will the revised rule have? (continued)*

The final rule also specifies that Medicaid EPs and EHs may only qualify for the adopt, implement, or upgrade incentive payment by adopting, implementing, or upgrading to 2014 Edition CEHRT.

No changes were made to any of the objectives or measures for meaningful use, or to the length of reporting periods in 2014 or beyond.

## *For what version of meaningful use should I attest, and using what version of CEHRT?*

| If you were scheduled to demonstrate: | You would be able to attest for meaningful use: | | |
|---|---|---|---|
| | Using 2011 Edition CEHRT to do: | Using a combination of 2011 & 2014 Edition CEHRT to do: | Using 2014 Edition CEHRT to do: |
| Stage 1 in 2014 | 2013 Stage 1 Objectives and Measures * | 2013 Stage 1 Objectives and Measures *<br>- OR -<br>2014 Stage 1 Objectives and Measures * | 2014 Stage 1 Objectives and Measures |
| Stage 2 in 2014 | 2013 Stage 1 Objectives and Measures * | 2013 Stage 1 Objectives and Measures *<br>- OR -<br>2014 Stage 1 Objectives and Measures *<br>- OR -<br>Stage 2 Objectives and Measures * | 2014 Stage 1 Objectives and Measures *<br>- OR -<br>Stage 2 Objectives and Measures |

* Only providers that could not fully implement 2014 Edition CEHRT for the EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability.

Source: Federal Register, pg 52914: http://www.gpo.gov/fdsys/pkg/FR-2014-09-04/pdf/2014-21021.pdf

## *What might qualify an EP or EH to be able to use the CEHRT options in 2014?*

In general, all situations that justify using one of the CEHRT options in 2014 (i.e. falling back to 2013 Stage 1 objectives & measures or to 2014 Stage 1 objectives and measures) must center around an EP's or EH's inability to fully implement 2014 Edition CEHRT due to demonstrable vendor delays. **However, installation of 2014 Edition CEHRT is not the sole deciding factor.** The following would be *some* of the possible reasons to use one of the CEHRT options:

- 2014 Edition CEHRT not installed in time for a full attestation period
- 2014 Edition CEHRT not installed in time to adequately perform system testing
- 2014 Edition CEHRT not installed in time to adequately train staff
- 2014 Edition CEHRT not installed in time to assess & implement new workflows
- 2014 Edition CEHRT not fully functional due to bugs, non-functioning or non-included required components, or safety concerns with the software
- Cases when the vendor has identified a functionality problem and sends out patches to fix the problem, and which requires the provider to wait until the issue is resolved to use the software

## *What situations would NOT qualify an EP or EH to be able to use the CEHRT options in 2014?*

It is important to note that the Final Rule is very clear: situations stemming from an EP's or EH's inaction or delay in implementing 2014 Edition CEHRT are NOT sufficient reasons to use one of the CEHRT options. These situations would include:

- Waiting too long to engage a vendor
- Provider's inability or refusal to purchase required software updates
- 2014 Edition CEHRT installed in time, but the EP or EH does not engage in timely system testing, employee training, and/or workflow implementation activities
- In cases when patches are released that require provider action (installation, configuration, etc.), and the EP or EH does not perform the required actions in a timely manner

Other situations NOT providing sufficient reason to use one of the CEHRT options include, but are not limited to:

- Failure to meet a measure threshold *
- Failure to conduct the activities required to meet a measure
- Staff turnover & changes

* A limited exception to use one of the CEHRT options is allowed for providers who could not meet the Stage 2 Summary of Care requirement that more than 10% of transitions of care or referrals must include an electronically-transmitted Summary of Care document. In these cases, however, the recipients must have been impacted by issues related to 2014 Edition CEHRT availability delays. EPs claiming this exception should document their rationale behind choosing to exercise this exception in case of audit.

## *What supporting documentation should an EP keep if they decide to use one of the CEHRT options in 2014?*

The final rule does not include specific requirements for documentation of an EP or EH's rationale behind using one of the CEHRT options. However, the Tri-State Regional Extension Center recommends the following be retained, at minimum:

- Documentation of vendor contacts regarding 2014 Edition CEHRT installation
  - Dates of initial requests, contracts/addendums, etc.
  - Documentation of vendor delays in installation, training, etc.
- Documentation of bugs or issues that prevent or delay the EP or EH from full implementation of the 2014 Edition CEHRT, that prevent the practice from achieving one or more measures, or that present safety issues
  - Trouble Ticket numbers, dates of submission, etc.
  - Email exchanges with vendor contacts to document practice action in resolving issues
- Minutes from internal meetings held to address issues stemming from vendor delays

## *What supporting documentation should an EP keep if they decide to use one of the CEHRT options in 2014? (continued)*

If a practice intends to claim the limited exception for the Stage 2 Summary of Care requirement that more than 10% of transitions of care or referrals must include an electronically-transmitted Summary of Care document, the EP or EH should, at minimum, perform the following steps:

- Make a historical list of the recipients of past referrals or transitions of care, including volume numbers and/or percentage of total referrals/transitions of care
- Contact these recipients and find out whether they are installing 2014 Edition CEHRT
- Document that these recipients are not able to fully implement 2014 Edition CEHRT due to issues related to 2014 Edition CEHRT availability delays
- Given the above documentation, ensure that the EP or EH would not be reasonably able to reach the 10% threshold

**If the EP or EH is reasonably able to reach the 10% threshold for this measure, the Tri-State REC strongly recommends that the EP/EH NOT attempt to claim the limited exception!**

## *Should I file for a hardship exception in 2014?*

In general, if you feel that you will have difficulty in fully implementing 2014-Edition Certified EHR Technology by the end of your reporting window, you SHOULD file a “2016 Hardship Exception” before the applicable deadline.

### FILING DEADLINES FOR HARDSHIP EXCEPTIONS:

Eligible Hospitals: April 1, 2015

Eligible Professionals: July 1, 2015

Filing for the exception may protect your Medicare reimbursement from the 2% payment adjustment in 2016Furthermore, if you are able to meet meaningful use at any of the levels described in the above table for the 2014 reporting year, filing for a 2016 hardship exception will have NO effect; no further paperwork need be filed to cancel a Hardship Exception Application if an EH, CAH, or EP is subsequently able to meet meaningful use for the 2014 reporting year.

Forms and further information about hardship exceptions are available at the following website:
http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/PaymentAdj_Hardship.html