

July 19, 2010

**RE: EHR Incentive Final Rule Overview**

The meaningful use criteria in the proposed rule were aggressive and inserted barriers for the successful and thoughtful implementation of electronic health records (EHR). Through formal comment, the Society urged CMS to lessen the burden by lowering the number of required objectives from 25 assuring that thresholds within the measures for reporting be applied in phases. Doing so would allow for a solid foundation of functionality necessary for optimal implementation and use. This modification would also result in a goal of the HITECH act being recognized, that is, using EHR technology to provide patient centered care that is evidence-based, prevention oriented, efficient and equitable.

The criteria for Stage 1 in the final rule seems to provide the balance that is necessary to address the sometimes competing considerations of improving health care quality with the short implementation time frame allotted by the HITECH Act. The final rule offers a “phased” approach that roots in functionality of an EHR system and expects growth to a more robust definition of meaningful use in Stage 2 and Stage 3. Eligible providers seeking incentives will be required to report on 10 “core” objectives and an additional five from a list of 10 “menu” objectives.

Reducing the objectives for meaningful use and inserting flexibility for the more challenging measures does not mean however that physicians should wait to purchase and implement systems. It really illustrates that the next two years, 2011 and 2012, should be used wisely in developing optimized infrastructure within a certified EHR system so moving toward a more robust definition of meaningful use in 2013, or Stage 2 can be swiftly accomplished.

Other significant improvements in the incentive final rule impacting Wisconsin physicians include a clarification that computerized physician order entry (CPOE) may be performed by any licensed health care professional per state, local and professional guidelines. Stage 1 CPOE criteria have been reduced to only medication orders with a threshold of 30 percent. The CPOE threshold will rise to 60 percent in Stage 2, and this is the only definitive criterion provided as preview of the Stage 2 objectives.

Another example of flexibility in the rule is evidenced in moving lab test results as structured data away from a required element for 2011. This objective is now included as one of the 10 menu options that physicians may choose to implement based on optimizing functionality.

Recent legislative changes also expanded eligibility to hospital-based physicians. The Continuing Extension Act of 2010, which was signed April 15, removed site of service 22 (hospital outpatient) from the Health Information Technology for Economic and Clinical Health (HITECH)

Act as ineligible for incentive payments. CMS plans to outline a process using claims data to annually determine physicians' hospital-based status. This change to the legislation expands incentive eligibility throughout Wisconsin where the landscape is largely comprised of highly integrated health care systems.

Stage 1 criteria focus primarily on capturing health information in a structured format, which will aid in the development of EHR functionality. This type of well thought out functionality will result in the ability to track key clinical conditions, better care coordination, ease of information exchange and continuous quality improvement. This will also allow physicians to take the necessary time to make decisions related to the selection and implementation of an EHR system while still allowing time to qualify for the incentives by 2012. By reporting measures defined by the meaningful use objectives prior to December 31, 2012, physicians are setting the stage to receive the maximum incentive payments through Medicare or Medicaid.

While there are many positive changes included in the final rule, there is still reason to be cautious. Although greater levels of flexibility are included, those eligible providers at the lowest end of adoption may still be hard pressed to select, adopt, implement and meet the meaningful use incentive requirements in a 2-year period. Further complicating this time frame is the ambiguity that still remains in the final rule. CMS will need to act swiftly providing the necessary clarification and guidance to pieces of the final rule ensuring eligible professionals will be able to attest to meaningful use in calendar year 2011.

The certification process may also be cause for further delay. ONC is not expected to announce entities which will test and certify EHR products until early fall. This timeline will impact vendors seeking certification and could potentially have a cascading effect on the eligible professionals trying to achieve meaningful use in the early stages.

CMS and ONC might also consider transparency in the form of a long-term plan related to Stage 2 and Stage 3 certification and quality measure calculation in order to provide vendors with sufficient time to complete development and testing of the necessary technology and software to ensure compliant, well-paced EHR implementation.