

## The Electronic Health Records Mandate and Increasing Medicare Penalties



The Health Information Technology for Economic and Clinical

Health (“HITECH”) Act, among other goals, sought to move the United States health care industry into the digital age. One such way to expedite the process was by providing a deadline for the implementation of electronic health records (“EHR”). For providers who have not adopted EHR systems or cannot demonstrate “meaningful use” by the EHR deadline of January 1, 2015, the Department of Health and Human Services (“HHS”) has laid out a series of monetary penalties.

The Centers for Medicare and Medicaid Services (“CMS”) has defined meaningful use as a series of objectives regarding electronic records, and has broken up these objectives in three stages. Stage 1, which ended in 2012, focuses on data capture and sharing. It requires that providers electronically capture health information in a standardized format, use that information to track key clinical conditions, communicate that information for care coordination processes, initiate the reporting of quality measures and public health information, and use information to engage patients in their care. Providers will have until the end of 2014 to meet Stage 2, which focuses on advanced clinical processes, including more rigorous health information exchanges, increased requirements for electronic prescribing, and electronic transmission of patient care summaries across multiple settings. Stage 3, which concludes in 2016, focuses on improving health outcomes, patient access to self-management tools, and access to comprehensive patient data through patient-centered health information exchanges.

Starting on January 1, 2015, failing to establish meaningful use of EHR will result in a 1% reduction of Medicare reimbursements. The deduction rate increases in subsequent years by 2% in 2016, 3% in 2017, 4% in 2018, and up to 95% depending on future adjustments. The practical implications of these penalties are serious. For example, for a private practice being reimbursed 20% by Medicare, \$500,000 of annual income that fails to meet the EHR mandate will lose \$1000 in payments in 2015, \$2000 in payments in 2016, and even more in subsequent years.

In order to avoid being penalized, providers should understand the EHR mandate of the HITECH Act and know the process and requirements for implementing EHR systems. Having an effective compliance program for EHR is essential in meeting the criteria set out by CMS, and more importantly, can potentially save you thousands of dollars in income.

Sources:

[CMS EHR Incentive Programs](#)

[CMS FAQs](#)