

National Indian Health Board



Submitted via <http://www.regulations.gov>

July 21, 2014

Centers for Medicare & Medicaid Services, Department of
Health and Human Services, Attention: CMS-0052-P,
P.O. Box 8013,
Baltimore, MD 21244-8050

Re: Comments on Medicare and Medicaid Programs; Modifications to the Medicare and Medicaid Electronic Health Record Incentive Programs for 2014; and Health Information Technology: Revisions to the Certified EHR Technology Definition. [CMS-0052-P; RIN 0938-AS30]

AGENCY: Centers for Medicare & Medicaid Services (CMS), and Office of the National Coordinator for health Information Technology (ONC), HHS.

This letter presents comments of the National Indian Health Board (NIHB)¹ in response to the CMS proposed rule that would change the meaningful use stage timeline and the definition of certified electronic health record technology (CEHRT). It would also change the requirements for the reporting of clinical quality measures for 2014.

A. Background

The National Indian Health Board (NIHB) received an award from the Office of the National Coordinator for Health Information Technology (ONC) to establish a national Regional Extension Center (REC) to assist Native American and Alaska Native health systems to deploy Electronic Health Records (EHR) and to assist the Providers working at these facilities to achieve Meaningful Use (MU) of Electronic Health Records. The National Indian Health Board serves as the only National REC for ONC and provides Meaningful Use services for the Native American/Alaska Native population across the entire United States. 74% of our providers use the Indian Health Service (IHS) Resource and Patient Management System (RPMS), 17% use Cerner, 4% use NextGen, 4% do not have an EHR yet, and the final 1% use other EHR's. NIHB's comments follow the order of sections as presented in the Proposed Rule.

¹ Established 40 years ago, NIHB is an inter-Tribal organization that advocates on behalf of Tribal governments for the provision of quality health care to all American Indians and Alaska Natives. NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service ("IHS") Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act ("ISDEAA"), or continue to also rely on IHS for delivery of some, or even most, of their health care, NIHB is their advocate.

B. Introduction

Section II – Provisions of the Proposed Regulations

A. Proposed Changes to Meaningful Use Stage Timeline and the Use of CEHRT

1) Reporting in 2014

IHS is diligently working on the required programming to make their EHR system conform to the 2014 EHR certified rules. The certification date is expected in August of 2014 but that date is not finalized yet. Once certified, deployment across the 325 sites that NIHB serves using RPMS will take considerable time, followed by a learning curve for providers on the new system then, by a minimum of full 90 days of using the new 2014 EHR before the first MU reports that demonstrate Meaningful Use can be run. NIHB wants to bring this to the attention of CMS as this timeframe could easily push achieving Meaningful Use for the vast majority of providers into 2015.

NIHB supports the proposed flexibility in reporting Meaningful Use (MU) in 2014 as it would allow the NIHB REC to continue to assist providers in demonstrating MU with their currently certified 2011 version EHR's, through the end of 2014. The proposed rule would also allow the NIHB REC to continue to provide support as health facilities upgrade their EHR's when the Vendors finish their certification and installation processes. The adoption of this rule will allow the much needed REC resources to continue including the incentive payments from CMS to underserved and rural Native American and Alaska Native health facilities.

NIHB recommends that for 2014, CMS allow reporting periods that are not tied to calendar quarters. Restricting reporting periods to calendar quarters only allows four chances for success. The option under the Medicaid program to report any continuous 90-day period should apply to the Medicare program as well to allow more opportunities for success. In addition, for 2014, NIHB recommends allowing reporting periods any time during the year. A provider who can successfully attest for a 90-day period earlier in the calendar year could upgrade to 2014 Edition CEHRT as soon as possible without impacting their chances for successfully attesting. This provider would have additional time for training and workflow modifications essential to launching the new EHR.

2) Extension of Stage 2.

The proposed Extension of Meaningful Use Stage 2 until the beginning of 2015 is also critically important. This will allow providers to focus on the implementation of the 2014 CEHRT. More importantly, the delay will allow time for the providers to get the appropriate training that they will need to not only use the 2014 Certified EHR, but to truly become meaningful users of the EHR before being required to start into a reporting period.

NIHB recommends that ONC allow for a 90-day reporting period in 2015 that is not tied to a calendar quarter. A shorter reporting period and flexibility in reporting dates, will allow EHRs and EPs additional time to train staff and modify workflows necessary to successfully implement the 2014 Edition CEHRT, and would allow time for technologies and tools (such as Direct messaging and patient portals) to continue to develop and become more widespread -- all giving providers greater opportunity to achieve MU Stage 2.

B. Clinical Quality Measure Submission in 2014

- 1) NIHB fully supports this section of the Proposed Rule which simply allows the provider the flexibility to choose which Clinical Quality Measure (CQM) standard they are reporting on based upon the scenario they chose to attest to, to demonstrate MU in 2014.

C. Revision to the CEHRT Definition for Additional Flexibility in 2014

- 1) While NIHB sees the necessity of this portion of the proposed Rule that would modify the CERHT definitions with relevant dates corresponding to 2014 and 2015, making the first day of 2015 the required start of the use of 2014 CEHRT may be creating a future problem. NIHB commends CMS on the recognition of vendor barriers and the issue this has created with regards to implementation and the struggle providers are having with attesting to MU in 2014. However by time this Proposed Rule is passed by CMS, there will only be a few months left in 2014 for federal and state agencies and EHR vendors to deploy and update their systems, and to train staff, to allow the use of the Proposed Rule. NIHB recommends delaying the start of the required use of 2014 CEHRT. NIHB recommends that the start date begin July 1, 2015 (the start of the CY 3rd quarter), but if that proves impossible, NIHB urges the agency to start no earlier than April 1, 2015 (the start of the CY 2nd quarter).

C. Conclusion

On behalf of National Indian Health Board, I thank you for considering our Comments on Notice of Proposed Rule Making (NPRM) for Medicare and Medicaid Programs; Modifications to the Medicare and Medicaid Electronic Health Record Incentive Programs for 2014; and Health Information Technology: Revisions to the Certified EHR Technology Definition. [CMS-0052-P; RIN 0938-AS30]. NIHB appreciates that CMS and ONC continue to demonstrate flexibility in administering the EHR Incentive Program and Certification and Standards Program to respond to the public's concerns. This proposed rule shows that CMS and ONC understand the issues faced by EHR vendors, hospitals, providers, and others impacted by this program.

NIHB urges CMS to expedite this rulemaking process. The timing of the rulemaking process will, unfortunately, not allow hospitals to have a full understanding of their 2014 requirements before the last 90-day reporting period of FY2014 that began on July 1. If the final rule is released before October 1, it would inform providers of their 2014 requirements before their last 90-day reporting period of CY2014 begins and inform hospitals of their 2015 requirements before their reporting period begins.

Please let us know if there is any other information NIHB can provide to assist your analysis of this matter.

Sincerely,



Stacy A. Bohlen
Executive Director
National Indian Health Board