Tips for avoiding a Medicare Meaningful Use penalty in 2015: Take action now

The Medicare Meaningful Use (MU) penalties (otherwise known as “payment adjustments”) go into effect for physicians starting Jan. 1, 2015. Unless eligible physicians meet the program’s requirements; file for and receive a hardship exception; or qualify for one of the program’s limited exemptions, they will receive a one percent payment cut to their 2015 Medicare Part B reimbursement. You must continue to demonstrate MU every year to avoid penalties in subsequent years. If you are only eligible to participate in the Medicaid MU Program, you are not subject to these penalties.

Determine how your MU start year will affect the 2015 penalties:

- **2011 or 2012 Start Year:** You must demonstrate MU for a full year in 2013 to avoid the penalties in 2015.
- **2013 Start Year:** You must demonstrate MU for a 90-day reporting period in 2013 to avoid the penalties in 2015.
- **2014 Start Year:** You must demonstrate MU by no later than October 1, 2014 for a 90-day period. The reporting period must occur in the first 9 months of calendar year 2014.

Apply for a hardship by July 1, 2014 to avoid 2015 penalties

Eligible physicians may apply for hardship exceptions to avoid the 2015 penalty. Hardship exceptions will be granted only under specific circumstances, and you generally must reapply each year. Below are the categories of hardship exemptions available to physicians. Physicians are strongly urged to apply.

- **Infrastructure:** Eligible professionals must demonstrate that they are in an area without sufficient internet access or face insurmountable barriers to obtaining infrastructure (e.g., lack of broadband).
- **New Eligible Professionals:** Newly practicing eligible professionals who would not have had time to become meaningful users can apply for a 2-year limited exception to payment adjustments. Thus eligible professionals who begin practice in calendar year 2015 would receive an exception to the penalties in 2015 and 2016, but would have to begin demonstrating meaningful use in calendar year 2016 to avoid payment adjustments in 2017.
- **Unforeseen Circumstances:** Examples may include a natural disaster or other unforeseeable barrier.
- **Patient Interaction:**
  - Lack of face-to-face or telemedicine interaction with patient
  - Lack of follow-up need with patients
- **Practice at Multiple Locations:** Lack of control over availability of CEHRT for more than 50% of patient encounters
- **2014 EHR Vendor Issues:** The eligible professional’s EHR vendor was unable to obtain 2014 certification or the eligible professional was unable to implement meaningful use due to 2014 EHR certification delays.

Assess impact of recent MU proposed rule

On May 23, the Centers for Medicare & Medicaid Services (CMS) announced a proposed rule that would provide some additional relief for physicians in meeting MU. The rule proposed two significant changes:
1) allowing physicians, regardless of when they started MU, to use the old version of certified software (V2011), a combination of the new and old software (V2011 and 2014), or just the new software (V2014); and 2) providing those physicians who were required to move to Stage 2 in 2014 another year at Stage 1. **Note:** An important point is physicians would only qualify for this relief if they could not implement V2014 software due to delays in the availability of the software. While the rule is not expected to be finalized until late summer/early fall, we do not expect significant changes and urge physicians to consider these proposals. The best way to ascertain whether this rule will help you is to review the table provided below.

<table>
<thead>
<tr>
<th>TABLE 2—PROPOSED CEHRT SYSTEMS AVAILABLE FOR USE IN 2014</th>
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<td><strong>If you were scheduled to demonstrate:</strong></td>
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<td>Stage 1 in 2014</td>
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<td>Stage 2 in 2014</td>
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In the Stage 2 final rule published in 2012, CMS had several changes to Stage 1. Some changes begin in 2013 and others in 2014. You will note in the below table a mention of these. For a complete list of how the measures changed see the AMA’s chart that outlines this in detail.

**Note about quality measures:** The only way to meet MU Quality and Physician Quality Reporting (PQRS) by reporting once is to use Version 2014 certified EHR, report on eCQMs for a full year and report CQMs as finalized in the Stage 2 final rule (report 9 measures from 3 of the NQS domains).

**Where to go for more information**

- CMS [EHR Incentive Programs](#) website or the [AMA website](#)
- CMS [Hardship Interactive Hardship Exemption Tool](#)
- CMS [Hardship Application](#) and [tipsheet on payment adjustments and hardship exemptions](#) can be found here
- CMS Proposed Rule on using older/combination of older and new software and letting physicians ready to move to Stage 2 at Stage 1 another year can be found [here](#).