



## Final CMS e-Prescribing Rule Eases Requirements

*Gienna Shaw, for HealthLeaders Media , September 2, 2011*

More physicians and practices can expect to avoid cuts in Medicare payments now that the Centers for Medicare & Medicaid Services has softened e-Prescribing rules.

In its final rule, published in the Federal Register Tuesday, CMS added new "significant hardship" exemptions, agreed to exempt those practices that are already meaningful users of certified EHRs, and extended the deadline to apply for those exceptions by one month to November 1, 2011 for the 2012 payment adjustment.

A 1% cut in fees for those who are not successful e-Prescribers will begin in 2012. Providers also face a potential 1.5% and 2% cut for 2013 and 2014, respectively.

The final rule takes into account provider comments to the proposed rules—specifically complaints that they were confusing, cumbersome, and duplicative.

"After we published the 2011 Medicare Physician Fee Schedule Final Rule last fall, we heard about additional circumstances that could keep physicians and other health professionals from being successful e-prescribers," Patrick Conway, MD, chief medical officer and director of CMS' office of clinical standards & quality wrote in a [blog post on the final e-prescribing rules](#).

"For example," he wrote, "some providers weren't sure whether certified electronic health record technology that the Medicare and Medicaid EHR Incentive Programs require is also a 'qualified' electronic prescribing system as required by the Medicare eRx Incentive Program. [Other] providers brought up additional hardship situations that the 2011 MPFS final rule didn't address."

The final rule is "a positive movement in the right direction" toward consolidation and clarification, Mary Griskewicz, senior director of health information systems for the Healthcare Information and Management Systems Society said in an interview.

"The biggest issue was [that] the eligible professionals did not want to have to deal with the payment adjustment for 2012. We think there's an attempt here to do that. Given the current environment, the providers are still feeling squeezed overall. To have them go through the adjustment in 2012 really wasn't fair," she said.

The 2012 hardship exemptions in the final rule cover eligible professionals who:

- Cannot electronically prescribe due to local, state, or federal law or regulation or have limited prescribing activity.
- Are not a physician, nurse practitioner, or physician assistant as of June 30, 2011 and do not generally have prescribing privileges.
- Are located in rural areas without sufficient high speed Internet access or in an area without sufficient available pharmacies for electronic prescribing.

Additionally, organizations that have already registered to participate in the Medicare or Medicaid EHR Incentive Programs and adopt certified EHR technology do not have to prove that they are successful e-prescribers, since that program already requires meaningful users have e-prescribing capabilities.

Aligning e-prescribing incentives and certified EHR technology is a good move, Sharon F. Canner, senior director of advocacy programs for the College of Healthcare Information Management Executives said in an interview. "With previous legislation they have not been aligned so it's really important that they have done that," she said. "We hope that CMS will continue to move down this path in harmonizing across Health IT related programs—big underline under harmonization."

Despite the fact that the changes will give some providers a reprieve, CMS is touting the more flexible rules as a way to encourage more providers to adopt the technology and to make it easier for them to do so successfully.

"In particular, the changes will better recognize those circumstances when the ability of professionals to meet the eRx requirements is limited and when the requirements clearly pose a significant hardship," Conway wrote.

"We remain committed to the many benefits that come to patients with successful electronic prescribing, and we continue to encourage healthcare professionals to adopt this practice. However, we also can appreciate and acknowledge that this technology poses challenges to some providers. Changes in the final rule will help doctors and other healthcare providers in their efforts to become successful e-prescribers, ultimately leading to fewer errors and better care for patients."

In another attempt to make it easier for providers to apply for exemptions, CMS added an online tool to its site. Physician practices, however, still have to submit a written letter.

In a statement, The American Medical Association that CMS "has provided more flexibility under the exemption categories and that they have extended the deadline for physicians to apply for an exemption until November 1." But the AMA said it "had hoped for even greater flexibility, including an additional reporting period. We remain concerned that physicians will be hit with a penalty and are not being given enough time to comply with the e-prescribing program criteria to avoid this penalty."

Read the CMS Final rule [here](#).