



Anesthesia and Meaningful Use

Theoretically, anesthesiologists are able to participate in CMS' EHR Meaningful Use (MU) Incentive Program since most meet the basic requirement to perform more than 10 percent of their services in an outpatient or ambulatory surgery center. Beyond that, however, the situation gets more complex since qualifying for the MU incentives requires use of a certified EHR, attestation to meaningful use of it, and evolving meaningful use to meet Stage 2 and subsequent requirements. Because of these complexities, most anesthesia groups are taking advantage of the exemption granted to anesthesiologists. But for those that wish to explore the options, we offer some "FAQ's":

HOW DOES THE INCENTIVE PROGRAM WORK?

There are actually two EHR incentive programs, one for Medicare and one for Medicaid. The incentives (and penalties) are expressed as "per EP", meaning per Eligible Provider (per physician).

MEDICARE INCENTIVE PROGRAM

In the MU program for 2011 or 2012, the full incentive payment was \$44,000 for Medicare. The maximum incentive payment for the remaining two years is:

- 2013 - \$39,000
- 2014 - \$24,000

For 2015 and subsequent years: the incentive is replaced by a penalty, called a "payment adjustment reduction" that will be applied to the Medicare physician fee schedule. The payment adjustment is 1% per year and is cumulative for every year an EP is not a meaningful user. For 2018 and thereafter, if it is found that the proportion of providers who are Medicare EHR users is less than 75%, then reductions will increase by 1% each year but not by more than 5% overall.

Payment adjustments will be as follows:

- 1% in 2015,
- 2% in 2016,
- 3% in 2017,
- 4% in 2018, and
- between 3-5% in subsequent years.

However, it is very important to note that:

1. Anesthesiologists have been granted an exemption for the MU requirements (along with other hospital-based physicians including radiologists and pathologists); and
2. The penalties described here are very controversial and many observers expect them to be modified or eliminated.

MEDICAID INCENTIVE PROGRAM

The Medicaid Incentive Program runs for 6 years with a maximum incentive payment of \$63,750. However, in order to qualify, an anesthesiologist's Medicaid population must be at least 30% of total

patient volume (billed encounters). Since this is rare amongst our clients, the remainder of this article addresses the Medicare Incentive Program.

DO YOU NEED TO OWN AN EHR SYSTEM TO PARTICIPATE IN THE INCENTIVE PROGRAM?

You can show meaningful use (MU) and participate in the Medicare program without having purchased an EHR system. However, the system used by the anesthesiologist must be certified for the user to be eligible for the incentive payment and the user must meet the meaningful use requirements. You can check to see if the system you are currently using or intend to use is a certified system under the CMS program on this HealthIT website. Important note: MU criteria are different for hospitals and for EP's. So even if a hospital has an EHR that allows it to meet MU criteria, the same system may not allow EP's to qualify. Here are more details about the use of a certified EHR system to participate in the Medicare EHR Incentive Program:

1. An EP may begin the EHR reporting period for demonstrating Meaningful Use before their EHR technology is certified.
 - Certification must be obtained prior to the end of the EHR reporting period. However, MU must be completed using the capabilities and standards outlined in the ONC Standards and Certification Regulation for a certified EHR.
 - Any changes to the EHR technology after the beginning of the EHR reporting period that are made in order to get the EHR technology certified would be evidence that the provider was not using the capabilities and standards necessary to accomplish MU because those changes would not have been available, so any change disqualifies the provider from being a MU EHR user.
2. Each EP within a group qualifies for the incentive plan. The number of individual anesthesiologists who apply will determine how many dollars flow back to the practice. Group practices would need to ensure that all EPs do enough out-patient work to qualify.
3. It does not matter how information is entered into the EHR. Anyone can enter the data or the records can be automatically populated from another electronic source (medication entry is an exception). The anesthesiologist does not have to personally enter most data.
4. Hospital based anesthesiologists will have to leverage their hospital-based EHR to qualify for MU. However, this means working with hospital IT and administration to tailor or expand the hospital EHR to support the 25physician measures (which are NOT the same as the hospital MU measures).

WHAT ARE THE REPORTING PERIODS?

To qualify for Medicare incentive payments, the anesthesiologist must “meaningfully use” certified EHR technology for the reporting period of the relevant payment year.

- 1st year of participation – continuous 90-day period or more
- 2nd and subsequent years – entire calendar year.

CMS, in the Stage 2 ruling, made an exception for 2014 requiring only a three-month reporting period in that year in order for EPs to make the necessary changes to their systems for the upcoming Stage 2 requirements. The three month reporting period is fixed to calendar year quarters.

HOW IS “MEANINGFUL USE” MEASURED?

The three main components of meaningful use are the use of a certified EHR:

- in a meaningful manner,
- for electronic exchange of health information to improve the quality of health care, and
- to submit clinical quality and other measures.

“MEANINGFUL MANNER”

There are a total of 25 meaningful use objectives which were created to show how well a provider (“EP”) is using EHR by ensuring basic patient information is captured in the medical record and entered into the EHR system. To qualify for an incentive, 20 of these 25 objectives must be met. There are also 10 menu-set objectives of which 5 objectives must be met. However, some of these measures do not apply to the scope of practice in anesthesia and don’t fit typical anesthesia practice patterns. If a provider cannot meet a specific MU objective because it is outside the scope of their practice, they may be allowed to exempt that objective.

Some examples are:

- Whether the physician has “provided the patients with an electronic copy of their health information (including diagnostics test results, problem list, medication lists , medication allergies) upon request”.
- A physician who has patients age 65 or older or age 5 or younger would not have to meet the requirement to send an appropriate reminder to 20 percent or more of all patients in those age groups during the EHR reporting period.
- An EP must write at least 100 prescriptions to be eligible for the e-prescribing objective.

CLINICAL QUALITY MEASURES

Anesthesiologists must report on 3 required Core Quality Measures (CQMs), and if the denominator of one or more of the required core measures is 0, then the anesthesiologist is required to report results for up to 3 alternate core measures (ACMs). In addition, anesthesiologists must also select 3

additional CQMs from a set of 38 CQMs.

WHEN DO I HAVE TO MOVE TO STAGE 2?

EPs participate in Stage 1 for two years before moving on to Stage 2. The exception to this is for providers who began participation in 2011, who had three years in Stage 1 as CMS delayed the onset of Stage 2 until 2014. The following chart designates when an anesthesiologist must move to the Stage 2 requirements after beginning the

Participated in Stage 1	Move to Stage 2
2011	2014
2012	2014
2013	2015
2014	2016
2015	2017
2016	2017

WHO IS EXEMPT FROM THE EHR MEANINGFUL USE PROGRAM?

In the Stage 2 final rule, CMS created the following hardship exemptions based on responses received during the proposed rule comment period.

Scope of Practice: EPs who do not see patients face-to-face or who practice in multiple locations where they have no control over the availability of EHR technology.

- The face-to-face exemption is directed towards Anesthesiologists, Pathologists, and Radiologists. These EPs must be registered in Medicare’s Provider Enrollment Chain and Ownership System (PECOS) with a primary specialty of anesthesiology, pathology or radiology.
- The multiple locations exemption covers EPs who see patients in multiple locations such as ASCs or nursing homes where the EP has no interest or say in whether the facilities install certified EHR systems for their use. As these facilities are not required under the EHR Programs to be EHR certified, the EPs would bear the entire impact of any payment adjustment.
- The ruling says that the Scope of Practice exemptions may not be awarded for more than 5 years. CMS will regularly assess meaningful use compliance levels and the overall state of health information exchange and may make regulatory changes or develop new guidance that would eliminate the need for this exception. New legislation is required to make this exemption permanent.

Infrastructure: Clinicians must prove that they practice in an area with inadequate internet access or “insurmountable barriers” to obtaining it

New Practitioners: Clinicians who begin practicing in 2015 could be exempt from the MU penalty in 2015 and 2016, but would have to demonstrate MU in 2016 to avoid the penalty in 2017.

Unforeseen Circumstances: Natural disaster or some other unforeseeable event that prevents meeting EHR MU criteria. CMS will consider this exception on a case-by-case basis.

The deadline to apply for the exemption from the 2015 payment adjustment is July 1, 2014. However, CMS has not yet published the application process.

ARE THERE RISKS AND COSTS ASSOCIATED WITH MEANINGFUL USE?

In a word, yes to both. The costs to comply can be significant, even if the anesthesia group doesn't have to purchase an EHR. Understanding the requirements, tailoring physician workflows, training and implementation—all require substantial attention. In addition, MU is not a static target. Stage 2 (described above) adds many more required elements as will Stage 3 in the future. Stages 1 and 2 were clearly not designed with hospital-based physicians in mind. Whether this will be addressed in Stage 3 is not yet known. In the meantime, anesthesiologists will find themselves “fitting a square peg in a round hole” to meet the MU requirements.

A final consideration is that CMS has started to audit groups that have filed for MU incentive payments to verify that they actually meet the requirements which they have claimed to meet (“attestation”). We are aware of at least one anesthesia group currently in the middle of this audit process. They face the prospect of returning some or all of their incentive payments plus the significant costs of the audit.

ADDITIONAL RESOURCES

More information on the Medicare EHR Meaningful Use Incentive Program, including registration and attestation can be found in our EHR Incentive Resource Manual or on CMS' website.

AHS' EHR INCENTIVE R
CMS EHR WEBSITE