Meaningful Use: Participating in the Federal Incentive Program

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Meaningful use legislation was first introduced in the American Recovery and Reinvestment Act of 2009 as a multistaged program to incentivize adoption of electronic health record technology. Since that time, numerous eligible providers and eligible hospitals have captured incentive payments by installing certified electronic health record technology and capturing and reporting on key elements for patients whose health records are stored in an electronic format. Although the question of whether radiologists should participate in the program was initially debated, the evidence is now clear that lack of participation leaves a significant amount of money at risk. This article provides an overview of how the program is structured, what technology needs to be installed, the necessary data elements to capture in an electronic format, and how radiologists can effectively participate in the program to capture their maximum incentive payment.

Key Words: Meaningful use, electronic health record, eligible provider, stage 1

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INTRODUCTION

Industries such as finance and air travel have been able to leverage IT tools to cut costs and improve customer service, but the health care field has lagged behind. Purchasing tickets online for a trip around the world is easy, yet securing an appointment for an imaging exam still requires a phone call during regular business hours, in most instances. The latest music and movies can be streamed to mobile devices effortlessly, but obtaining lab results or radiology reports is still an arduous task. Online banking tools allow for the secure electronic transfer of funds to pay a majority of bills, except for the ones mailed out from the doctor's office or hospital.

To accelerate the adoption of IT in health care, the government has instituted an incentive program focused on "meaningful use" (MU). To be eligible to receive the incentive payments, simply purchasing an electronic health record (EHR) is not enough; that EHR must be certified to meet certain standards, termed certified EHR technology (CEHRT). The purchaser of the EHR must also use it in a "meaningful way," hence the term "meaningful use."

The government's MU program is staggered over multiple years (it began in 2011) and currently includes 3 stages. Each stage of the program is intended to gradually phase in more-stringent measures that are designed to lead, when adopted, to a nationwide interoperable health information exchange network and improved patient care. Stage 1 focuses on the capturing and sharing of data. Stage 2 focuses on information exchange in a structured format and continuous quality improvement. Stage 3 attempts to achieve the ultimate goal of improved outcomes by building on the infrastructure established by stages 1 and 2. Additional goals include clinical decision support, patient health portals, and population health improvement. All physicians enter the program at stage 1, regardless of the calendar year in which they enroll in the program; they remain in each stage for a period of 2 years.

Both CMS and the Office of the National Coordinator for Health IT (ONC) oversee the MU program. CMS handles the program as it relates to physicians, who are to follow measures and meet objectives to receive incentive payments. The ONC develops corresponding criteria and software standards for manufacturers to follow. The ONC has approved a number of private authorized certification and testing bodies (ATCB) to certify that EHR software meets these standards. If any ATCB certifies that a product meets the ONC standards, that software is deemed CEHRT.

The MU program is divided into a separate program for physicians, who are designated as eligible professionals (EPs), and a separate program for hospitals, which are designated as eligible hospitals (EHs) [1]. Each program has different but overlapping requirements, along with different incentive payments for both the Medicare and

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Medicaid versions. Most radiologists qualify for the Medicare EP program, the focus of this article.

Within the radiology community, the question of whether radiologists should participate in the government's MU program is a subject of debate. Arguments have been made that the measures within the program do not seem relevant to a radiologist's daily workflow. Although the stage 1 measures may seem to be more relevant to primary care providers, the main goals of stage 1 relate to simply capturing common data elements, not improving workflow or efficiency for any specialty. Moreover, the MU program will likely become a cornerstone of health care IT adoption in the United States, providing an opportunity for radiology groups to better integrate imaging services with existing hospital EHRs with little out-of-pocket cost. Professional radiology associations such as the ACR are addressing relevant concerns in an ongoing manner by providing comments to CMS and ONC upon release of proposed rules, and advocating on behalf of radiologists to ensure that future rulemaking better reflects ways in which radiologists can provide higher quality care by leveraging data contained in the EHR.

Prior to more recent rulemaking, radiologists were subject to penalties (1-3% of total Medicare reimbursement) for not participating in the program. In September of 2012, a significant hardship exemption was extended to all radiologists, meaning that they would not be subject to penalties as long as radiology was listed as their primary specialty. However, CMS maintains that this could change in subsequent rulemaking, and the significant hardship exemption will apply for only 5 years but is subject to annual renewal. CMS has noted that physicians should not expect this exemption to continue indefinitely.

LEGISLATION

MU legislation is included in the American Recovery and Reinvestment Act of 2009, better known as the "stimulus bill." Specifically, Title XIII of the bill outlines the Health IT for Economic and Clinical Health (HITECH) Act that describes the incentive program (totaling up to $20 billion) for the MU of CEHRT. MU legislation is not part of the Patient Protection and Affordable Care Act of 2010 ("the health care reform bill") and will not be affected directly by amendments or potential future repeal of the Affordable Care Act.

As EPs, radiologists are eligible to receive incentive payments (up to $1.5 billion in aggregate) and will not face penalties for the near future. More recently, CMS and the ONC have created new rules that allow for radiologists to be exempt from MU requirements, provided they are listed in the "provider enrollment, chain, and ownership" system. However, future penalties for lack of participation in the MU program will likely be on the horizon, as the significant hardship exemption automatically expires in 2020. Thus, understanding the rules of MU and keeping up to date with the evolving incentive/penalty payment structure issued by CMS is imperative for radiologists.

How and Why MU Legislation Affects Radiologists

The ways that MU legislation affects radiologists are best illuminated by examining the basic structure of the program. The MU program is divided into 2 parts, one for EPs and one for EHs. Each program has different but overlapping requirements, along with different incentive payments. CMS uses place-of-service (POS) codes to determine whether a particular physician falls under the EH or EP part of the program. POS codes refer to where an imaging exam was done (see Eligibility Requirements section). When the interim final rule for stage 1 was released in 2010, POS code 22 (outpatient services rendered in the hospital) was part of the EH program [2]. This particular code generated fear that primary care physicians who saw outpatients in the hospital would lose out on incentive payments, jeopardizing the entire program. To correct this potential problem, POS code 22 was shifted from the EH to the EP part of the MU program (Continuing Extension Act of 2010, H.R. 4851). Because a large amount of the imaging done in the United States also falls under this POS code (outpatient hospital), most radiologists were inadvertently converted to EPs as well.

Eligibility Requirements

For a radiologist to be eligible for incentive payments, >10% of a radiologist's total CMS yearly billing must be outside of POS code 21 (for an inpatient hospital) and POS code 23 (for an emergency room [ER] hospital). A radiologist who reads exclusively ER or inpatient studies would not be eligible for the program. However, a radiologist who reads <90% of their studies from either ER- or inpatient-derived studies would be eligible. This broad inclusion allows the majority of radiologists to be eligible for the program. Eligibility is determined per physician and is not based on group size or group expertise. Although attestation can be made for an entire group by an authorized employee, each MU metric is measured on an individual physician basis.

CMS will not issue any feedback, or accept or reject applications. The only enforcement of an EP's attestation comes from the risk of a future audit (42 CFR 495.8(c). Available at http://www.ecfr.gov/cgi-bin/text-idx?SID=35d21010cff786652c3571e02c9a37e0&node=42:5.0.1.1.11.1.32.5&rgn=div8). In addition, an attestation record for each EP must be maintained for 6 years. Therefore, a full understanding of what one is attesting to is imperative to avoid penalties during a potential audit.