

## **CMS Order Entry Rule Impacts Ophthalmic Personnel**

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The Centers for Medicare and Medicaid Services (CMS) has issued a final rule about which allied health personnel can enter orders into the electronic health record (EHR) to show meaningful use under the Medicare and Medicaid EHR Incentive Programs. This CMS rule reflects a significant departure from previous federal requirements, and should have a positive impact on certified ophthalmic personnel.

The purpose of the Electronic Health Records Incentive Program is to encourage health care providers to utilize EHR technology in ways that will improve public health. “Eligible professionals” (such as physicians and osteopaths) who demonstrate “meaningful use” of electronic health records by meeting mandatory CMS “core objectives” can receive incentive payments of up to \$44,000 over five years under the Medicare EHR Incentive Program, or up to \$63,750 over six years under the Medicaid EHR Incentive Program.

But, there is a “stick” as well as a “carrot!” According to CMS, “Medicare eligible professionals who do not meet the requirements for meaningful use by 2015 and in each subsequent year are subject to payment adjustment to their Medicare reimbursements that start at 1% per year, up to a maximum 5% annual adjustment.”

There are three “stages” of implementation of the Incentive Program. The Stage 1 CMS regulations restricted entry of medication orders into the “computerized provider order entry” (CPOE) system to eligible professionals and *licensed* health care professionals working under their supervision, such as registered nurses and licensed practical nurses. However, as CMS was finalizing Stage 2 regulations, it became apparent that prohibiting eligible professionals from delegating order entry to appropriately credentialed, but *non-licensed*, allied health professionals was putting an unnecessary burden on physicians.

In an effort both to protect the public and help physicians meet the meaningful use objectives, CMS decided that “credentialed medical assistants,” as well as licensed health care professionals, would be permitted to enter orders into the CPOE. Note the following from CMS’ explanation of how it arrived at the final Stage 2 language, which went into effect January 1, 2013:

Many EPs [eligible professionals] practice without the assistance of other licensed health care professionals. These EPs in their comments [to CMS] urged the expansion [of who could enter orders] to credentialed health care professionals/medical assistants. We believe that this expansion is warranted... The concept of credentialed health care professionals is over broad and could include an untold number of people with varying qualifications. Therefore, we finalize the more limited description of including credentialed medical assistants. The credentialing would have to be obtained from an organization other than the employing organization.

How does this CMS decision affect ophthalmologists and ophthalmic assistants, technicians, and technologists? There is a reasonable basis for asserting that certified ophthalmic allied health professionals fall within the general definition of “credentialed medical assistants” in the Stage 2 regulations. Therefore, it is also legally defensible to assert that certified ophthalmic personnel are allowed to enter orders into the electronic health record for calculating compliance with the meaningful use requirements of the Incentive Program.

This is a very fluid area of the law, especially because in 2014 CMS will be issuing proposed rules for Stage 3 of the Medicare and Medicaid EHR Incentive Program. Questions can be directed to the author at: [dbalasa@aama-ntl.org](mailto:dbalasa@aama-ntl.org)