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So What Does "Meaningful Use" Mean Anyway?

In a previous Legal Rx column, we discussed the American Recovery and Reinvestment Act of 2009's provisions for the payment of incentives for the adoption and use of electronic health records (EHR) technology by Medicare and Medicaid professionals. While these provisions have been roundly well-received, uncertainty lingers as to what providers will be required to do in order to qualify for the incentives.

As discussed previously, the Act provides for incentive payments to be paid to eligible professionals who are meaningful users of EHR. However, rather than elucidate what a "meaningful user" is, the Act's authors decided to leave that responsibility to our now-former governor, the Secretary of Health and Human Services.

The Act requires that the Secretary develop a formal definition of "meaningful use" by the end of 2009. In the meantime, however, the Health Information Technology (HIT) Policy Committee has provided a glimpse into what that definition might look like in a draft plan presented at HHS on June 16.

The Plan acknowledges that any definition of "meaningful use" will need to evolve along with the technology it seeks to define. To that end, the plan focuses primarily on what may constitute "meaningful use" in 2011, the first year incentive payments will be available.

In order to qualify for incentives, a provider would need to electronically record basic patient clinical data including: patient current problem lists; patient active medication lists; patient active medication allergy lists; patient vital signs; lab/test results; and patient demographics (race, ethnicity, gender, insurance type, and language) under the proposed plan. Providers would additionally need to use electronic prescribing systems that incorporate drug-drug, drug-allergy, and drug formulary checks, as well as report immunization and symptom surveillance data to public health agencies.

In order to receive the maximum incentives available in 2013 and 2015, providers would need to meet progressively more rigorous standards under the plan. While the plan does not detail these standards, it does indicate that in 2013, providers would have to use clinical decision support at the point of care and retrieve and act on electronic prescription fill data. In 2015, providers

would also need to achieve medical device interoperability as well as minimal levels of performance on quality, safety, and efficiency.

The plan also proposes that any provider or entity under investigation for a violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) be deemed ineligible for incentive payments until it is cleared of any wrongdoing.

The full text of the plan is available at *http://healthit.hhs.gov/portal/server.pt*. HHS will accept public comment of the plan through the close of business on July 26.

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