



## Attesting for the 2014 Program Year in the EHR Incentive Program

On May 23, 2014, CMS announced a proposed rule, which would grant flexibility to providers who are having difficulty being able to fully implement a 2014-certified EHR technology (CEHRT). The final rule was announced by CMS on August 29, 2014, with an effective date of October 1, 2014. TennCare will be working in the coming weeks, making the necessary changes to our system to allow providers to take full advantage of this new rule.

Printed below is the CMS newsletter that went out August 29<sup>th</sup>.

---

### News Update – August 29, 2014

#### Review Final Rule to Determine Your CEHRT Participation Options for Program Year 2014

Today, CMS released a [final rule](#) that allows providers participating in the EHR Incentive Programs to use the 2011 Edition of certified electronic health record technology (CEHRT) for calendar and fiscal year 2014.

The rule grants flexibility to providers who are unable to fully implement 2014 Edition CEHRT for an EHR reporting period in 2014 due to delays in 2014 CEHRT availability. Providers may now use EHRs that have been certified under the 2011 Edition, a combination of the 2011 and 2014 Editions, or the 2014 Edition for 2014 participation.

Beginning in 2015, all eligible providers **will be required** to report using 2014 Edition CEHRT.

#### **2014 Participation Options**

Under the rule, providers are able to use 2011 Edition CEHRT, and have the option to attest to the 2013 Stage 1 meaningful use objectives and the 2013 definition CQMs.

#### **2011 CEHRT**

Providers scheduled to meet Stage 1 or Stage 2:

- [2013 Stage 1 objectives](#) and [2013 CQMs](#)

**Combination of 2011 & 2014 CEHRT**

Providers scheduled to meet Stage 1:

- 2013 Stage 1 objectives and 2013 CQMs; **or**
- [2014 Stage 1 objectives](#) and [2014 CQMs](#)

Providers scheduled to meet Stage 2:

- 2013 Stage 1 objectives and 2013 CQMs; **or**
- 2014 Stage 1 objectives and 2014 CQMs; **or**
- [2014 Stage 2 objectives](#) and 2014 CQMs

**2014 CEHRT**

Providers scheduled to meet Stage 1:

- 2014 Stage 1 objectives and 2014 CQMs

Providers scheduled to meet Stage 2:

- 2014 Stage 1 objectives and 2014 CQMs; **or**
- 2014 Stage 2 objectives and 2014 CQMs

**CEHRT Flexibility Resources**

To help the public understand the final rule's changes to 2014 participation, CMS has developed the following resources:

- [CEHRT Interactive Decision Tool](#) – providers answer a few questions about their current stage of meaningful use and Edition of EHR certification, and the tool displays the corresponding 2014 options.
- [2014 CEHRT Flexibility Chart](#) – chart provides a visual overview of CEHRT participation options for 2014.
- [2014 CEHRT Rule Quick Guide](#) – guide provides corresponding resources based on the option a provider chooses to participate in the EHR Incentive Programs in 2014.

**Extending Stage 2**

The rule also finalizes CMS and ONC's [recommended timeline](#) to extend Stage 2 through 2016. The earliest a provider can participate in Stage 3 of meaningful use is now 2017.

**For More Information**

Visit the CMS Newsroom to read the [press release](#) about the final rule. For more EHR Incentive Programs resources, visit the [CMS EHR website](#).

---

**TennCare highly recommends that you take advantage of the CEHRT flexibility resources above to determine your most advantageous option for 2014 attestation.**

---

## What does this mean to you?

If you have not attested for Meaningful Use (MU) in Program 2014 because you have not been able to fully implement a 2014 Edition of CEHRT, now have the option of using a previously certified system, or to attest to 2014 MU requirements at Stage 1 or Stage 2, depending on where you are with your system.

### Caveats

#### ▶▶ Document, Document, **DOCUMENT!**

#### Q: What does “fully implement” mean?

A: As defined by CMS, ‘fully implement’ means that “Providers who choose [any] option must attest that they are unable to fully implement 2014 Edition CEHRT **because of issues related to 2014 Edition CEHRT availability delays when they attest to the meaningful use objectives and measures.**” (Emphasis added)

#### Q: What is an “availability delay”?

A: CMS defines primarily it by what it is not. We’ll cover that next. Basically, an “availability delay” is one where the provider is unable to obtain a 2014 Edition CEHRT because

- The vendor/developer has encountered unexpected problems in getting the CEHRT approved by the ONC Authorized Certification Body;
- The vendor has been unable to install the provider’s system due to a backlog of clients.

Note: CMS is not laying the blame on vendors, developers, or providers. It is a function of the “system” being overwhelmed by too much in too little time.

#### Q: What is not an “availability delay”?

A: An “availability delay” is **NOT**

- Providers that did not fully implement 2014 Edition CEHRT due to financial issues, such as the costs associated with implementing, upgrading, installing, testing, or other similar financial issues, would not be able to use the options for CEHRT for the reporting period in 2014.
- Issues related to the MU objectives and measures do not constitute an inability to fully implement 2014 Edition CEHRT.

(CMS states, “...those providers who have fully implemented 2014 Edition CEHRT and cannot meet one or more measures for reasons unrelated to the inability to fully implement 2014 Edition CEHRT due to delays in the product availability cannot use the options for the use of CEHRT and must attest to their stage of meaningful use using 2014 Edition CEHRT as originally intended.” CMS goes on to say that they believe a limited exception is warranted for providers who could not meet the threshold for the Stage 2 summary of care where the **receiving** provider has been unable to fully implement a 2014 Edition CEHRT due to availability delays. “A **referring** provider under this circumstance may attest to the 2014 Stage 1 objectives and measures for the EHR reporting period in 2014.”)

- CMS states that staff changes and turnover to be an insufficient rationale for a provider to use the CEHRT options.

- Situations stemming from a provider's inaction or delay in implementing 2014 Edition CEHRT is insufficient to use one of the CEHRT options.

## MORE Q&As

- **What is the impact on the scheduled Medicare payment reductions effective January 1, 2015?**

CMS still plans to implement the Medicare payment reductions January 1. If you are not an approved meaningful user of your CEHRT and you see Medicare patients, your Medicare reimbursements will be lower. As it relates to the TennCare Medicaid EHR Incentive Program, if you are not certified as a meaningful user, you will **not** receive lower TennCare Medicaid payments. There are some scheduled TennCare Medicaid reductions, but these are across the board and do not relate to the EHR Incentive Program.

- **What about attesting in Program Year 2015 and subsequent years?**

In the comments section of the *Final Rule*, CMS indicates that 2015, and subsequent years, will remain on schedule. In other words, you must have your 2014 Edition CEHRT (or later versions as standards change) up, running, and in use on January 1, 2015 as you will **need a full year of MU data** to attest beginning January 1, 2016. Any provider who is attesting for MU for the first time in 2015 and subsequent years, still may use a 90-day MU reporting period. Stage 3 has been officially delayed until 2017.

If your 2014 Edition CEHRT is not up, running, and in use on January 1, 2015, the next time you will be able to attest is January 1, 2017. Again for 2015 & beyond, you must have a full year of MU data to attest. You will not lose any EHR Incentive money when you skip a year.

- **What if I am attesting to AIU (adopt, implement, or upgrading) in 2014, or beyond?**

You must have a 2014 Edition CEHRT (or later versions as standards change) in order to attest to AIU in 2014. The CEHRT options are not available to you.

- **I attested for 2014 after April 1 and TennCare returned my attestation because I did not have a 2014 Edition CEHRT. Can I re-attest?**

Yes, but only if you are eligible to use one of the options enumerated in the *Final Rule*. We will be sending an email to these providers with an explanation.

- **When can any provider attest using the CEHRT options?**

The effective date of the rule is October 1, 2014, so certainly not before then. Unfortunately at this time, we do not believe our system will be ready October 1. CMS understands this and we hope you will also. This rule change requires an extensive re-write of our program, plus testing, etc. As soon as we are ready to accept attestations using the CEHRT options, we will issue our newsletter, as well as every other means available to us. If you are not already subscribed to our newsletter and received this information through some other means, please go to the Contact Information section of this newsletter, which contains a link to the subscription process.

- **What documentation will we need to provide to show we are unable to fully implement a 2014 Edition CEHRT?**

Documentation will vary according to each provider's reason for the delay. You might include any communication with the vendor regarding delays in 2014 Edition CEHRT availability, installation, or completion; or date-specific documentation showing when the software or equipment was installed, along with a forecast of time needed to train staff in usage including an explanation of why the time was inadequate. **At this time, TennCare is not requiring you to upload your documentation to your 2014 Program Year attestation. However, you must maintain your documentation on file in your business office for six (6) years following the attestation year.** You must be able to provide the documentation should you chosen for an audit.

### Again, Document, Document, DOCUMENT!

**We think that this is so important we are going to reinforce it.**



**When should Providers use the new flexible options to attest for 2014 Meaningful Use?**

A Provider's ability to use these new flexible options for CEHRT is based upon the provider's inability to fully implement 2014 Edition CEHRT based upon issues related to:

- Software development delay
- Software certification delay
- Release of the product by the EHR vendor which affected 2014 CEHRT availability
- Software functionality if 2014 CEHRT has been installed but the software itself is presenting problems with functionality such as the software does not yet contain all of the required components or waiting for software updates or patches to resolve software functionality issues.

In the following situations, a provider would **not** be permitted to use the new flexible options:

- 2014 CEHRT not fully implemented due to financial issues
- Issues related to the meaningful use objectives and measures such as the inability to meet certain measure thresholds or failure to conduct activities required to meet a measure\*
- Issues related to staffing changes or turnover
- The delay in attaining 2014 CEHRT stemmed from a provider's inaction or delay in implementing 2014 CEHRT such as a provider waiting too long to engage a vendor or refusal to purchase the requisite software update.

\*Stage 2 New 2014 Limited Exception

Due to concerns about meeting Stage 2 **transitions of care objective**, measure 15, there is a new limited exception available during payment year 2014 only for providers ready to attest to Stage 2 meaningful use. Issues related to **other** Stage 2 meaningful use objectives and measures such as a failure to meet a threshold or failure to conduct activities required to meet a measure will not be considered a suitable basis to use this limited flex option. This limited Stage 2 flex option applies solely to the second transition of care measure that requires electronic transmission of the summary of care document using 2014 CEHRT, which implies that the recipient or intermediary is able to receive the summary of care document in the

standard required for transmission. The exception will apply **only** when a provider cannot meet the 10% threshold because the intermediary or the recipient of the transmission of the referral is experiencing delays in the ability to fully implement 2014 CEHRT. **The referring provider under this circumstance may attest to the 2014 Stage 1 objectives and measures for the EHR 2014 reporting period only in payment year 2014.**

***Audit requirements for 2014 Flexible Options:***

*The submitting provider must keep documents and/or records related to the reason the provider met the flexible option for 2014 MU attestations. **These records must be kept for six (6) years to meet audit requirements.** For the Stage 2 limited flexibility option, the referring provider must retain documentation for six (6) years demonstrating that they were unable to meet the 10% threshold for the measure to provide an electronic summary of care document for a transition or referral because the recipient(s) were impacted by issues related to 2014 CEHRT delays and therefore could not implement the functionality required to receive the electronic summary of care document.*

## MU Post Payment Audits

All incentive payments received by a provider are subject to audit. The provider may be asked to produce documentation to support **any** of the information in the attestation. If sufficient documentation is not produced, the provider will be determined ineligible for the payment.

Providers may have difficulty reproducing data that agrees with their attestation. Therefore, it is recommended that **providers save electronic copies of their attested MU data**, in Excel format if available. This includes the dashboard report and detail reports of each numerator and denominator included in the attestation, ensuring the detail reports agree with the dashboard report. The detail reports supporting each numerator and denominator should include sufficient information to identify each patient included in the calculation for the measure. Providers are required to retain documentation to support all attestations for a minimum of **six (6) years** after each payment year as noted on the signature page of the attestation.

## SECURITY RISK ASSESSMENT CORE MEASURE

In order to qualify for Meaningful Use incentive payments, **a provider must meet the requirements outlined in the Security Standards of 45 CFR 164.306 – 316.** Below are links to guidance that will facilitate performing the annual risk assessment.

**Security Rule Guidance Material**

Source: Office for Civil Rights

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/securityrule/securityruleguidance.html>

**Security Risk Analysis Tipsheet**

Source: CMS

[http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Downloads/SecurityRiskAssessment\\_FactSheet\\_Updated\\_20131122.pdf](http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Downloads/SecurityRiskAssessment_FactSheet_Updated_20131122.pdf)

---

**Security Risk Assessment Tool and Video**

Source: Office of the National Coordinator for Health IT

<http://www.healthit.gov/providers-professionals/security-risk-assessment>

---

**Security Standards for the Protection of Electronic Protected Health Information**

Source: Code of Federal Regulations

Title 45: Public Welfare

Part 164 – Security and Privacy

Subpart C – 164.302 – 164.318 & Appendix:

[http://www.ecfr.gov/cgi-bin/text-idx?SID=b1b7f7205dbe836f5918c349a24aecef&node=pt45.1.164&rgn=div5#se45.1.164\\_1302](http://www.ecfr.gov/cgi-bin/text-idx?SID=b1b7f7205dbe836f5918c349a24aecef&node=pt45.1.164&rgn=div5#se45.1.164_1302)

## Important Eligible Hospital and Critical Access Hospital Updates

The Stage 2 *Final Rule* has been recently updated by CMS. There are some important changes for eligible hospitals (EHs) and critical access hospitals (CAHs).

- **Stage 2 menu set:**

The Stage 2 menu measure, to provide lab results to ambulatory providers for more than 20% of electronic labs ordered has been updated. An alternate measure has been finalized allowing a method of calculating the denominator using all lab orders rather than only those received electronically.

- **Stage 1 and 2 Core measure corrected:**

The objective for hospitals to provide patients the ability to view online, download and transmit information about hospital admissions has been corrected. In the Stage 2 *Final Rule*, the word “unique” was inadvertently omitted from the regulation text for the *denominator*. To clarify, the measures for that objective are based on the number of unique patients discharged from a hospital’s inpatient and emergency departments during the EHR reporting period.

- **New case number threshold exemption for CQM extended to first year EHs and CAHs:**  
EHs and CAHs with 5 or fewer discharges during the relevant EHR reporting period (if attesting 90 days) or 20 or fewer discharges (if attesting to full year) was part of the Stage 2 *Final Rule*. However, EHs and CAHs demonstrating meaningful use for the first year were excluded for claiming the threshold exemption. The current Stage 2 update allows EHs and CAHs demonstrating meaningful use for the 1<sup>st</sup> time to submit their CQM and qualify for case number exemption(s). Medicaid-only hospitals including children's hospitals must report this same information to the state to which they attest.



## Contact Information

As always, anytime you have a question or need assistance, please feel free to contact us. We will get back to you as quickly as possible.

 **Please be sure to include the provider's name and NPI when contacting us.** 

- ◆ For questions relating to **Meaningful Use (MU)**, send an email to [EHRMeaningfuluse.TennCare@tn.gov](mailto:EHRMeaningfuluse.TennCare@tn.gov)
- ◆ For **all other questions**, send an email to [TennCare.EHRIncentive@tn.gov](mailto:TennCare.EHRIncentive@tn.gov)
- ◆ The **CMS Help Desk** can be reached at 1-888-734-6433.
- ◆ **TennCare Medicaid EHR Incentive Program web site:** [http://www.tn.gov/tenncare/ehr\\_intro.shtml](http://www.tn.gov/tenncare/ehr_intro.shtml)
- ◆ **PowerPoint Presentations** on different subject areas are available here:  
[http://www.tn.gov/tenncare/ehr\\_page6.shtml](http://www.tn.gov/tenncare/ehr_page6.shtml)

### TennCare E-Newsletters:

If you choose to unsubscribe from this list at any time, you may do so by sending a message to:

[listserv@listserv.tn.gov](mailto:listserv@listserv.tn.gov),

(no subject) and **unsubscribe MedicaidHIT**

You will receive an email confirming your removal.

**To view previous** TennCare E-Newsletters, go to [http://www.tn.gov/tenncare/ehr\\_newsletters.shtml](http://www.tn.gov/tenncare/ehr_newsletters.shtml)