



Topical Review

CMS Announces 2011 Electronic Prescribing (eRx) Incentive Program Final Rule¹

August 31, 2011

The Centers for Medicare & Medicaid Services (CMS) have announced changes to the Medicare Electronic Prescribing (eRx) Incentive Program for Calendar Year 2011.

Background

Section 132 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) required the Secretary to establish a new reporting program for Eligible Professionals (EPs) who are successful electronic prescribers as defined by MIPPA, beginning on January 1, 2009.

While the eRx Incentive Program has similarities in structure and processes to the Physician Quality Reporting System (formerly the Physician Quality Reporting Initiative or PQRI), this program is a separate program with distinct reporting requirements and associated incentive payments and payment adjustments.

In addition to the electronic prescribing incentive payment, MIPPA called for a Medicare Physician Fee Schedule (MPFS) payment adjustment that will apply beginning in January 2012 to EPs who are not successful electronic prescribers, as defined in the Calendar Year (CY) 2011 MPFS final rule. For EPs who are subject to the 2012 eRx payment adjustment, the fee schedule amount for covered professional services furnished by EPs during the year shall be 1 percent less than the fee schedule amount that would otherwise apply for 2012. The potential MPFS reductions in the future are a 1.5 percent reduction for 2013 and 2.0 percent reduction for 2014.

Provisions of the 2012 eRx Payment Adjustment Established in the CY 2011 MPFS Final Rule

In addition to establishing the requirements for successful reporting of the electronic prescribing measure for the 2011 eRx incentive, the CY 2011 MPFS Final Rule also establishes the program requirements for purposes of avoiding the 2012 payment adjustment.

*An **Eligible Professional (EP)** will not be subject to the 2012 payment adjustment if one of the following applies:*

- The EP is not a physician (MD, DO, or podiatrist), nurse practitioner, or physician assistant as of June 30, 2011²;

¹ http://www.ofr.gov/OFRUpload/OFRData/2011-22629_PL.pdf.

² (This determination is based on the primary taxonomy code in the National Plan and Provider Enumeration System (NPPES)) and does not generally have prescribing privileges, and reports g-code G8644 (defined as not having prescribing privileges) at least one time on an eligible claim prior to June 30, 2011

- Does not have at least 100 cases containing an encounter code in the electronic prescribing measure’s denominator;
- The allowed charges for covered professional services submitted for the electronic prescribing measure’s denominator codes is less than 10 percent of the EP’s total 2011 Medicare Part B PFS allowed charges;
- A significant hardship code is reported and CMS determines that the hardship code applies (see “Significant Hardship Exemptions” section below) and is granted an exemption; OR
- The EP becomes a successful electronic prescriber for purposes of the 2012 payment adjustment by reporting the electronic prescribing measure via claims for at least 10 unique electronic prescribing events for patients in the denominator of the measure between January 1, 2011 and June 30, 2011.

*A **group practice** that is participating in the 2011 eRx group practice reporting option will not be subject to the 2012 payment adjustment if one of the following applies:*

- The group practice reports a significant hardship in its 2011 self-nomination letter for participation in the eRx Incentive Program group practice reporting option (see “Significant Hardship Exemptions” section below) and is granted an exemption; OR
- The group practice becomes a successful electronic prescriber for purposes of the 2012 payment adjustment by reporting the electronic prescribing measure via claims for between 75-2,500 unique electronic prescribing events (depending on the group practice size) for patients in the denominator of the measure between January 1, 2011 and June 30, 2011.

Significant Hardship Exemptions³.

If the Secretary determines that compliance would result in a significant hardship⁴, the Secretary may exempt an EP from the payment adjustment. In the CY 2011 MPFS Final Rule, CMS established the following two significant hardship exemptions for purposes of the 2012 payment adjustment:

- The EP practices in a rural area without sufficient high speed internet access⁵
- The EP practices in an area without sufficient available pharmacies for electronic prescribing⁶

In order to request consideration for an exemption from the 2012 payment adjustment via one of the two aforementioned significant hardship g-codes, the EP must report the g-code at least one time on a claim between January 1, 2011 and June 30, 2011. A group practice participating in

³ Section 1848(a)(5)(B)

⁴ On a case-by-case basis, subject to annual renewal

⁵ Report Code G8642

⁶ Report Code G8643

the eRx group practice reporting option for 2011 must have requested the significant hardship exemption at the time the practice self-nominated to participate.

Changes to the Medicare eRx Incentive Program for Calendar Year 2011

To address the concerns that the Medicare eRx Incentive program did not align with the Medicare or Medicaid EHR Incentive Program, as well as the need for additional significant hardship exemption categories, the following changes have been finalized:

- **Modify the existing 2011 electronic prescribing measure to address uncertainties related to the technological requirements of the Medicare eRx Incentive Program:** The existing 2011 electronic prescribing measure is revised to indicate that a qualified electronic prescribing system includes certified EHR technology as defined at 42 CFR 495.4 and 45 CFR 170.102.
 - **Provide additional significant hardship exemption categories for purposes of the 2012 payment adjustment:** The EP or group practice must demonstrate that one of these situations applies to the respective practice:
 - EPs who register to participate in the Medicare or Medicaid EHR Incentive Programs and adopt certified EHR technology;
 - Inability to electronically prescribe due to local, state, or federal law or regulation;
 - Limited prescribing activity; or
 - Insufficient opportunities to report the electronic prescribing measure.
 - **The deadline for requesting significant hardship exemptions to is now November 1, 2011.** This extended reporting deadline would apply to the two significant hardship exemptions established in the CY 2011 MPFS Final Rule as well as the additional significant hardship exemption categories above.
 - **Require submission of significant hardship exemption requests for the 2012 eRx payment adjustment via a web-based tool for individual EPs and via a mailed letter for group practices that are participating in the 2011 eRx group practice reporting optionⁱ.**
- *The final rule can be found at http://www.ofr.gov/OFRUpload/OFRData/2011-22629_PI.pdf.*
- *For more information about this announcement, read the <http://blog.cms.gov/2011/08/31/greater-flexibility-in-e-prescribing-means-greater-success/>*

ⁱ <http://www.cms.gov/ERXincentive/>