



## Topical Review

### What You Need to Know About the MIPPA 2011 Final Ruling<sup>1</sup>

August 31, 2011

The MIPAA 2011 final ruling<sup>2</sup> on the e-prescribing incentive expands on previous rulings through the addition of several hardship exemption categories.

#### Hardship Exemption Categories

##### *Old Categories*

Previous rulings established two hardship exemption categories that are identified when the appropriate G-code is submitted. For the purposes of determining the CY2012 payment adjustment, the deadline of June 30, 2011 has already passed. An exemption under these old categories cannot be requested for 2012 by the November deadline. In brief, the two codes are:

G8642: The Eligible Professional practices in a rural area without sufficient high speed internet access

G8643: The Eligible Professional practices in an area without sufficient available pharmacies for electronic prescribing

##### *New Categories*

The addition of four hardship exemption categories greatly expands the pool of potential providers that may meet exemption criteria, helps resolve some of the differences between the MIPPA e-prescribing incentive and the Medicare/Medicare EHR<sup>3</sup> incentive and provides more time to request exemption than the original proposed rule allowed.

1. A provider may apply for exemption if they are already registered to participate in the Medicare or Medicaid EHR Incentive Program and adopted a certified EHR technology.

---

<sup>1</sup> [http://www.ofr.gov/OFRUpload/OFRData/2011-22629\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2011-22629_PI.pdf).

<sup>2</sup> Detailed information on the current MIPPA e-prescribing incentive can be found at <http://www.cms.gov/ERxIncentive/>.

For those not familiar with the MIPPA incentive, a user-friendly guide with 2010 regulations, found at <http://www.cms.gov/partnerships/downloads/11399-P.pdf>, serves a useful resource for background information with which to understand the current final ruling.

<sup>3</sup> EHR = Electronic Health Record

*The ARRA and accompanying regulations are complex. Do not use this document as a substitute for legal counsel. For additional analysis, HIMSS members are encouraged to visit our [website](#).*

"To qualify for an exemption under this significant hardship exemption category, an Eligible Professional must have Certified EHR Technology available for immediate use. [...] we are requiring that every Eligible Professional submit the certification number associated with his or her Certified EHR Technology in order to qualify for consideration for an exemption under this significant hardship exemption category." The serial number of the EHR technology is not required as was previously proposed.

2. A provider may apply for exemption if they are unable to electronically prescribe due to local, State or Federal law or regulation.

This exemption is of great value to eligible providers who prescribe many controlled substances in states where electronic prescribing of controlled substances is not yet permissible. The corresponding State law or regulation must accompany the request for hardship exemption.

3. A provider may apply for exemption if they have limited prescribing activity.

Some Eligible Providers may have at least 100 denominator-eligible visits prior to June 30, 2011, but generate a very low number of prescriptions in the course of their practice. An example could be a provider who oversees mid-level practitioners or residents but personally writes very few prescriptions. The request for exemption should be accompanied by documentation of prescription volume.

4. A provider may apply for exemption if they have insufficient opportunities to report the electronic prescribing measure due to limitation's of the measure's denominator.

An example of a provider that may meet these criteria is one who provides prescriptions on a different day than the patient's visit, such as a postoperative visit. Surgeons in particular may benefit from this exemption.

### **Applications for exemptions under the new categories must be submitted by November 1st, 2011.**

Individual Eligible Providers should submit a hardship exemption request via the web tool only, while practices submitting a hardship exemption request should send it by mail only. Directions for submitting hardship exemption requests will be available at <http://www.cms.gov/ERxIncentive/>. If more than one exemption applies, more than one application can be made.

The web form can be found at:

[https://www.qualitynet.org/portal/server.pt/community/communications\\_support\\_system/234](https://www.qualitynet.org/portal/server.pt/community/communications_support_system/234).

Mailed applications (for groups) should contain:

- Identifying information which include the TIN, NPI, name, mailing address, and e-mail address of all affected eligible professionals.

*The ARRA and accompanying regulations are complex. Do not use this document as a substitute for legal counsel. For additional analysis, HIMSS members are encouraged to visit our [website](#).*

- The significant hardship exemption category that applies.
- A justification statement describing how compliance with the requirement for being a successful electronic prescriber for the 2012 eRx payment adjustment during the reporting period would result in a significant hardship to the group practice.
- An attestation of the accuracy of the information provided. This is a personal attestation by the eligible provider requesting exemption or in the case of groups, the contact person for the group. The attestation cannot be made by an agent of the provider or staff.

All requests are reviewed by CMS on a case-by-case basis; the results are final and cannot be appealed.

*Information from CMS on the eRx incentive can be found by calling 1-866-288-8912 or e-mailing [gnetsupport@sdps.org](mailto:gnetsupport@sdps.org). The information for this article was referenced and adapted from 42 CFR Part 414: Medicare Program; Changes to the Electronic Prescribing (eRx) Incentive Program [CMS-3248-F].*

*The ARRA and accompanying regulations are complex. Do not use this document as a substitute for legal counsel. For additional analysis, HIMSS members are encouraged to visit our [website](#).*