Earlier this month, Centers for Medicare and Medicaid Services ("CMS") and the Office of the National Coordinator for Health Information Technology ("ONC") released final rules for the third stage of the Meaningful Use incentive program. According to CMS, the final rules “simplify requirements and add new flexibilities for providers to make electronic health information available when and where it matters most and for health care providers and consumers to be able to readily, safely, and securely exchange that information.” CMS published the final rules following consideration of more than 2500 public comments to two proposed rules to the incentive program. The final rules include reduced meaningful use reporting obligations, changes to Stages 1 and 2 of meaningful use and requirements for Stage 3.

In recognition of requests from the provider community to ease the meaningful use reporting requirements, CMS reduced the reporting burden on providers in certain, specified instances. In 2015, providers only need to attest to the Stage 1 or Stage 2 requirements for a 90-day period. CMS extended the 90-day reporting period to new providers in 2016 and 2017. In addition, providers who choose to adopt the Stage 3 measures in 2017 are only...
required to attest to the meaningful use objectives for a 90-day reporting period.

Pursuant to the final rules, additional changes to the incentive programs in 2015 through 2017 include:

1. 10 objectives for eligible professionals, including one public health reporting objective (down from 18 total objectives in prior stages).
2. Nine objectives for eligible hospitals and critical access hospitals (“CAHs”), including one public health reporting objective (down from 20 total objectives in prior stages).
3. Clinical Quality Measures (“CQM”) reporting for both eligible professionals and eligible hospitals/CAHs remains as previously finalized.

The Stage 3 requirements in 2017 and subsequent years include:

1. Eight objectives for eligible professionals, eligible hospitals and CAHs. In Stage 3, more than 60 percent of the proposed measures require interoperability (up from 33 percent in Stage 2).
2. Public health reporting with flexible options for measure selection.
3. CQM reporting aligned with the CMS quality reporting programs.
4. Finalization of the use of application program interfaces (APIs) that enable the development of new functionalities to build bridges across systems and provide increased data access.

Objectives and measures for Stage 3 include increased thresholds, advanced use of health information exchange functionality and a focus on continuous quality improvement. All providers must commence Stage 3 reporting by January 1, 2018. Providers have the option of beginning Stage 3 attestation in 2017.

In connection with the publication of the final rules, CMS announced a 60-day public comment period to facilitate additional feedback about Stage 3 of the Meaningful Use incentive programs, particularly with the Medicare Access and CHIP Reauthorization Act of 2015, which established the merit-based payment system.

**Background**

The Health Information Technology for Economic and Clinical Health Act (HITECH), enacted as part of the American Recovery and Reinvestment Act, allocated $19 billion to hospitals and physicians that would be able to demonstrate “meaningful use” of electronic health records.
As a result of this legislation, Congress and the President set forth as a national priority the meaningful use of interoperable electronic health records throughout the United States.

Meaningful use means using certified electronic health record ("EHR") technology to:

- Improve quality, safety, efficiency, and reduce health disparities
- Engage patients and family
- Improve care coordination and population and public health
- Maintain privacy and security of patient health information

Ultimately, it is hoped that meaningful use compliance will result in:

- Better clinical outcomes
- Improved population health outcomes
- Increased transparency and efficiency
- Empowered individuals
- More robust research data on health systems

To encourage hospitals and eligible professionals to be early adopters of electronic health records, CMS established specific incentive programs for which hospitals and providers could qualify if they could demonstrate they have engaged in efforts to adopt and implement certified EHR technology. Together with the incentives, CMS also established payment penalties for providers and hospitals that did not meet the meaningful use requirements, which became effective January 1, 2015.

**Practice Tips**

1. Follow CMS’ continued updates on the Meaningful Use incentive programs.

2. Maintain close contact with your electronic health record vendors on the status of their preparation and readiness for each stage of Meaningful Use.

3. Seek professional guidance on the reporting and attestation process to confirm proper tracking of each objective and measure.

For any questions regarding the recent changes to the Meaningful Use incentive programs and how they impact your organization, please contact the authors of this alert or any member of Bryan Cave’s Health Care Team.