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CMS Okays 2 More Loopholes for eRx Penalty, Sets Deadline

Robert Lowes | Nov 15, 2012 Authors & Disclosures



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Editors' Recommendations



Deadline to Seek eRx
Penalty Exemption
Extended



CMS Proposes 2 More
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The Centers for Medicare and Medicaid Services (CMS) has approved 2 more hardship exemptions for physicians who would otherwise owe a penalty next year in Medicare's e-prescribing incentive program. Physicians have until January 31 to qualify for either of the 2 exemptions, which were proposed this summer.

The approval of the new loopholes, announced November 1, represents an attempt to synchronize Medicare's program to promote electronic prescribing with the CMS program to promote meaningful use of electronic health records (EHRs). Organized medicine has complained that the 2 programs, created by different laws, have duplicative reporting requirements that confuse physicians and burden them with extra work.

Physicians must e-prescribe as part of qualifying for an EHR meaningful use bonus, which they can elect to receive under Medicare or Medicaid. Those going the Medicaid route also can report their e-prescribing activity via claims to receive the bonus in the Medicare eRx program in the same year. If they receive a meaningful use bonus under Medicare, though, they cannot receive the eRx bonus.

However, until the 2013 Medicare fee schedule came out, such physicians had been obliged to report their e-prescribing numbers to CMS lest they be penalized for not being a "successful e-prescriber," as defined by the Medicare eRx program. CMS originally said physicians could avoid the 2013 penalty by reporting that they electronically transmitted a token 10 prescriptions to

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pharmacy computers in the first 6 months of 2012 (a number far fewer than that needed to qualify for either the eRx bonus or the EHR bonus). This was a prime example of duplicative reporting, organized medicine contended.

The 2 new loopholes made final by CMS earlier this month eliminate the muss and fuss. Physicians can now avoid the 2013 penalty — 1.5% of Medicare charges — if they attest to or report having achieved meaningful use of EHR technology in either 2011 or the first half of 2012. Alternatively, they can register to participate in the EHR incentive program for the first time and install electronic charts. To qualify for these hardship exemptions, physicians must either attest to meaningful use or register in the incentive program by January 31, 2013, at the CMS portal created for this purpose.

This date is also the deadline for requesting 4 other hardship exemptions to the eRx penalty in 2013:

- not enough local pharmacies accept electronic prescriptions;
- the physician practices in a rural area without high-speed Internet access;
- federal, state, or local law prevents e-prescribing; or
- the physician wrote fewer than 100 prescriptions during the first 6 months of 2012.

Physicians can apply for these 4 exemptions on the CMS QualityNet Web portal.

More information on the incentive programs for electronic prescribing and meaningful use of EHRs also is available on the CMS Web site.



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