

Deadline Looms for Avoiding the 2012 Medicare Electronic Prescribing Payment Reductions for 2012 Services – Are Physicians and Nonphysician Practitioners Beginning to Panic???

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As a reminder, beginning 2012, §132 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) requires the Centers for Medicare & Medicaid Services (CMS) to apply a payment adjustment to eligible professionals who are not successful electronic prescribers under the e-Rx Incentive Program. This payment adjustment applies to all of the eligible professional's Part B covered professional services that are paid under the Medicare Physician Fee Schedule (PFS).

If you are an eligible professional and do not meet one of the current e-Rx exemptions, the deadline for avoiding the 2012 Medicare e-Rx Incentive Program Payment adjustment is June 30, 2011.

From 2012 through 2014, the payment adjustment will increase with each new reporting period. Eligible professionals who do not meet the CMS "successful reporting" requirements during the 2011 reporting periods will be subject to a 1.0 percent adjustment to the allowed amounts for all 2012 services paid on the PFS. In 2013 and 2014, the payment adjustment increases to 1.5 percent and 2.0 percent respectively.

This means:

- For 2012, the payment adjustment for not being a 2011 successful electronic prescriber will result in an eligible professional or group practice receiving 99 percent of their Medicare Part B PFS amount that would otherwise apply to such services
- For 2013, the payment adjustment for not being a 2011 successful electronic prescriber will result in an eligible professional or group practice receiving 98.5 percent of their Medicare Part B PFS amount that would otherwise apply to such services
- For 2014, the payment adjustment for not being a 2013 successful electronic prescriber will result in an eligible professional or group practice receiving 98 percent of their Medicare Part B PFS amount for covered professional services

Exemptions

The 2012 payment adjustment does not apply if the eligible professional meets one of the following exceptions

- Has less than 10 percent of their allowed charges for the January 1, 2011 through June 30, 2011 reporting period comprised of codes in the denominator of the 2011 e-Rx measure.
- Has less than 100 cases containing an encounter code in the measure's denominator for the same January 1, 2011, through June 30, 2011, reporting period

Denominator Codes:

- Psychiatric Codes 90801 through 90809 and 90862
 - Eye Codes 92002 through 92014
 - Health and Behavior Assessment/Intervention Codes 96150 through 96152
 - Office and Other Outpatient Codes 99201 through 99215
 - Nursing Facility Codes 99304 through 99316
 - Domiciliary or Rest Home Visit Codes 99324 through 99337
 - Home Visit Codes 99341 through 99350
 - Cervical or Vaginal Cancer Screening; Pelvic and Clinical Breast Examination Code G0101
 - Diabetes outpatient self-management training services G0108 and G0109
- Is not a physician (MD, DO, or podiatrist), Nurse Practitioner, or Physician Assistant as of June 30, 2011, based on primary taxonomy code in the National Plan and Provider Enumeration System (NPPES) (**Optometrists are not subject to e-Rx payment adjustments**)

- Does not have prescribing privileges and reports the appropriate G-code, G8644 (defined as not having prescribing privileges) at least one time on an eligible claim prior to June 30, 2011;
- Becomes a successful electronic prescriber by submitting the required number of electronic prescriptions (10 for individual) via claims submitted June 30, 2011
- Claims a hardship exemption as described below

To qualify for the exemption of the e-Rx payment adjustment, group practices participating in the group practice reporting options GPRO I (200+ eligible professionals) or GPRO II (2 to 199 eligible professionals) during 2011

- Must have self-nominated by January 31, 2011 and been approved by CMS for the appropriate GPRO
- Must participate in GPRO Physician Quality Reporting mechanism
- MUST become a successful electronic prescriber (submit required number of electronic prescriptions via claims before June 30, 2011)
 - Depending on the group's size, the group practice must report the e-Rx measure for 75-2,500 unique e-Rx events via claims for patients in the denominator of the measure

Current Hardship Exemptions

An eligible professional or selected group practice can request an exemption to the e-Rx Incentive Program and the payment adjustment by reporting one of the "hardship codes" via claims if one of the following situations applies:

- G8642 The eligible professional practices in a rural area without sufficient high speed internet access and requests a hardship exemption from the application of the payment adjustment under section 1848(a)(5)(A) of the Social Security Act.
- G8643 The eligible professional practices in an area without sufficient available pharmacies for electronic prescribing and requests a hardship exemption from the application of the payment adjustment under section 1848(a)(5)(A) of the Social Security Act

Avoiding the 2013 Medicare Payment Adjustment

The above information discusses how to avoid the 2012 Medicare Payment Adjustment. Eligible professionals also need to realize that 2011 e-Rx prescribing events have an effect on Medicare payments for 2013 PFS services. Currently, an eligible professional or group practice who is a successful electronic prescriber for the 2011 e-Rx incentive (i.e., 25 unique e-Rx events in 2011 for an individual or the requisite number of e-Rx events for the specific group practice size) will be exempt from the 1.5 percent payment adjustment for PFS services provided in 2013.

There is no doubt that additional information will be included in the Medicare Program Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2012 Final Rule CMS will publish sometime in November 2011. Physicians and nonphysician practitioners must be proactive by keeping informed about current incentives and payment policies. Incentives today may, and probably will, turn into penalties in the future. It is one thing to say it is too much hassle to "earn" a 1.0 or 0.5 percent incentive payment. It is quite another when the decision today means a 1.0 percent payment reduction in the future.

We believe it is clear that to the extent possible, CMS needs to use claims/registry/EHR data for services rendered two (2) years prior to the effective date. This means that many of the decisions regarding 2013 payment adjustments will be based on 2011 data. As we move forward, to the extent possible, decisions regarding 2014 payment adjustments will be based on 2012 data.

Frequently Asked Questions

CMS has posted the answers to several frequently asked questions (FAQ). Due to the questions we have been asked to answer, we have selected the following CMS FAQs for inclusion in this article.

- If an eligible professional electronically prescribes **over-the-counter (OTC) medicine**, will this be counted for purposes of the Electronic Prescribing (e-Rx) Incentive Program? Published 05/11/2011 - Updated 05/12/2011 - Answer ID 10636

If an eligible professional sends an e-Rx (via a qualified e-Rx system) to the pharmacy electronically (for a denominator-eligible visit) then the e-Rx event would count--even for an OTC medicine. The key is the prescription needs to be sent electronically to a receiving entity and the system needs to be able to check for the dose, and drug-drug interactions, etc., if they are available, just like for a regular e-Rx. *[Emphasis added]*

- What are the reporting requirements for eligible professionals **working under multiple Taxpayer Identification Numbers** (TINs) who wish to avoid the 2012 Electronic Prescribing (e-Rx) Payment Adjustment? Published 04/12/2011 - Updated 04/13/2011 - Answer ID 10564

Analysis of the 6-month claims reporting period in 2011 (January 1-June 30) to determine eligibility for the 2012 e-Rx Payment Adjustment is per the TIN/National Provider Identifier (NPI). An eligible professional will need to meet the reporting criteria for each TIN under which he or she worked under for the first 6 months of 2011. (Not all-inclusive)

- If an eligible professional participating in the Electronic Prescribing (e-Rx) Incentive Program **completes an electronic prescription later in the day (or on the next day)** for a denominator-eligible encounter, can (s)he report on the e-Rx measure? Published 05/18/2011 - Updated 05/18/2011 - Answer ID 10643

Yes, the eligible professional may report G8553 if the e-Rx is associated with a qualifying office visit. At least one prescription, created during the encounter, must be generated and transmitted electronically using a qualified e-Rx system. The eligible professional does not have to be the one to enter the e-Rx into the system; a staff member may do so on his/her behalf. The electronic prescription may be completed during the visit, later in the day, or even on the following day. Eligible professionals should follow the usual claims-based reporting or registry-based submission principles. *[Emphasis added]*

- Will CMS provide an appeals process for individual eligible professionals or selected group practices who feel they have satisfactorily reported Physician Quality Reporting System (Physician Quality Reporting, formerly called PQRI) and/or Electronic Prescribing (e-Rx) Incentive Program measures but did not receive an incentive payment? Published 03/15/2007 - Updated 06/02/2011 - Answer ID 8267

Prior to 2011, the statutory authorization for Physician Quality Reporting and e-Rx specifically states that there shall be no administrative or judicial review. CMS has, however, established a process for eligible professionals to inquire about these matters. See the Quick-Reference Support Guide for Eligible Professionals download available on the Help Desk Support section of the CMS Physician Quality Reporting System website at:

http://www.cms.gov/PQRS/36_HelpDeskSupport.asp.

CMS Issues Proposed Rule Detailing Possible Changes to the Electronic Prescribing (e-Rx) Incentive Program

CMS published a Proposed Rule in the June 1, 2011 *Federal Register*. As you read this article, please remember this is only a **Proposed Rule**. As with all proposed rules, CMS is seeking comments about the changes it is considering. The general public has until July 25, 2011 to comment.

After CMS has had the opportunity to review the comments, a Final Rule will be issued that details any changes being made as well as providing information about requirements and timelines physicians and other eligible professionals will have to meet to be exempted from the 2012 Medicare payment adjustments.

No changes are being made at this time. Physicians and other eligible professionals are in a holding period until CMS issues the final rule. While we believe changes will occur, we do not anticipate having a Final Rule until some time in late August or even later in 2011.

This proposed rule provides, but it not limited to

- Additional significant hardship exemption categories for eligible professionals and group practices to request an exemption during 2011 for the 2012 e-Rx payment adjustment

In this proposed rules, CMS provides four (4) new exemptions

1. Eligible Professionals Who Register To Participate in the Medicare or Medicaid EHR Incentive Programs and Adopt Certified EHR Technology

To be considered for a significant hardship exemption under this category, CMS is proposing that the eligible professional, at a minimum, must:

- Have registered for either the Medicare or Medicaid EHR Incentive Program and
- Provide identifying information as to the certified EHR technology that has been adopted

2. Inability To Electronically Prescribe Due to Local, State, or Federal Law or Regulation

This exemption is for eligible professionals or group practices that has general prescribing authority is limited or prevented from electronically prescribing due to local, State, or Federal laws or regulations. CMS examples:

- Eligible professionals who prescribe a large volume of narcotics, which may not be electronically prescribed in some states
- Eligible professionals who practice in a State that prohibits or limits the transmission of electronic prescriptions via a third party network such as Surescripts

3. Limited Prescribing Activity

CMS proposes this exemption for eligible professionals having prescribing privileges but do not prescribe or very infrequently prescribe in their own practice. CMS examples

- A nurse practitioner who may not write prescriptions under his or her own NPI
- A physician who decides to let his Drug Enforcement Administration registration expire during the reporting period without renewing it
- Eligible professional who prescribed fewer than 10 prescriptions between January 1, 2011 and June 30, 2011 regardless of whether the prescriptions were electronically prescribed or not

4. Insufficient Opportunities To Report the Electronic Prescribing Measure Due to Limitations of the Measure's Denominator

CMS proposes this exemption for eligible professionals or group practices that have an e-Rx system, electronically prescribe, and has denominator-eligible visit, but do not normally write prescriptions associated with any of the types of visits included in the e-Rx measure's denominator. CMS example

- Certain types of physicians, i.e., surgeons because the bulk of their prescribing activity occurs in other circumstances that are not accounted for by the measure's denominator

CMS has proposed that eligible professionals wanting to apply for one of these hardship exemptions will need to send CMS a timely request that includes the following elements:

- Identifying information such as the TIN, NPI, name, mailing address, and e-mail address of all affected eligible professionals
- The significant hardship exemption category(ies) that apply
- A justification statement describing how compliance with the requirement for being a successful electronic prescriber for the 2012 e-Rx payment adjustment during the reporting period would result in a significant hardship to the eligible professional or group practice.
- An attestation of the accuracy of the information provided.

In its proposal, CMS makes it very clear that the justification statement must be specific to the exemption category(ies) and must explain how the exemption applies to the eligible professional or group practice. CMS example:

- If the eligible professional is requesting a significant hardship exemption due to Federal, State, or local law or regulation, he or she must cite the applicable law and how the law restricts the eligible professional's ability to electronically prescribe.
- If the eligible professional is requesting a significant hardship due to lack of prescribing activity, the eligible professional must provide the number of prescriptions generated during the 2012 e-Rx payment adjustment reporting period.

In this proposed rule, CMS states that eligible professionals or group practices will need to submit the hardship request by no later than October 1, 2011 (which, if submitted by mail, means postmarked no later than October 1, 2011). CMS is proposing the October 1, 2011 deadline, in order to complete the review of the requests in time to provide carriers/MACs a list of those eligible professionals or group practices that are not subject to the 2012 e-Rx payment adjustments based on the proposed additional significant hardship exemption categories.

CMS' goal is to process all exemption requests before Medicare payment contractors begin making claims processing systems changes to adjust payments for those eligible professionals or group practice who did not successfully report the e-Rx measure by June 30, 2010. Depending on the final deadline date for submitting requests and the volume of requests, CMS anticipates that they may not be able to complete the review of every request before the claims processing systems are updated. In such cases, if CMS ultimately approves the eligible professional's or group practice's request for a significant hardship exemption after claims, with dates of service January 1, 2012 and after, have been processed at the reduced PFS rate, Medicare contractors will reprocess the claims to ensure the affected providers receive the correct Medicare physician fee schedule allowance.