How the HITECH Regulations Impact the Use of Health Information Technology in ASCs

October 4, 2011

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Agenda

- Summary of HITECH
- How are ASCs impacted by HITECH?
- Additional federal drivers of HIT in ASCs
- Questions

Summary of HITECH Program

- Part of the Federal Stimulus bill passed in February 2009
- Up to $27B set aside for Health Information Technology
  - CMS (Medicare/Medicaid) to reimburse eligible professionals and hospitals for the "meaningful use" of "certified" EHR technology
  - Focused on two care settings: hospitals and physician offices
  - EP Medicare incentive payments = up to $44,000
  - Hospital Medicare incentive payments = base of $2 million
- Meaningful Use to be defined in Stages
  - Stage 1: 2011 (Final Rule released July 2010)
  - Stage 2: 2013 (Final Rule expected Q2/3 2012)
  - Stage 3: 2015 (Final Rule TBD)

Who's Writing the Regulations?

- Office of the National Coordinator for Health Information Technology
  - Office within the Department of Health and Human Services
  - Oversees two public/private advisory committees (HIT Policy and HIT Standards)
  - Drafted certification regulations
  - Responsible for issuing Rule on Standards for the Meaningful Use criteria
  - Oversees the certification process

- Centers for Medicare and Medicaid Services
  - Agency within the Department of Health and Human Services
  - Responsible for drafting the Meaningful Use regulations
  - Oversees the HITECH Incentive program
  - Will receive quality data submissions beginning with Stage 2

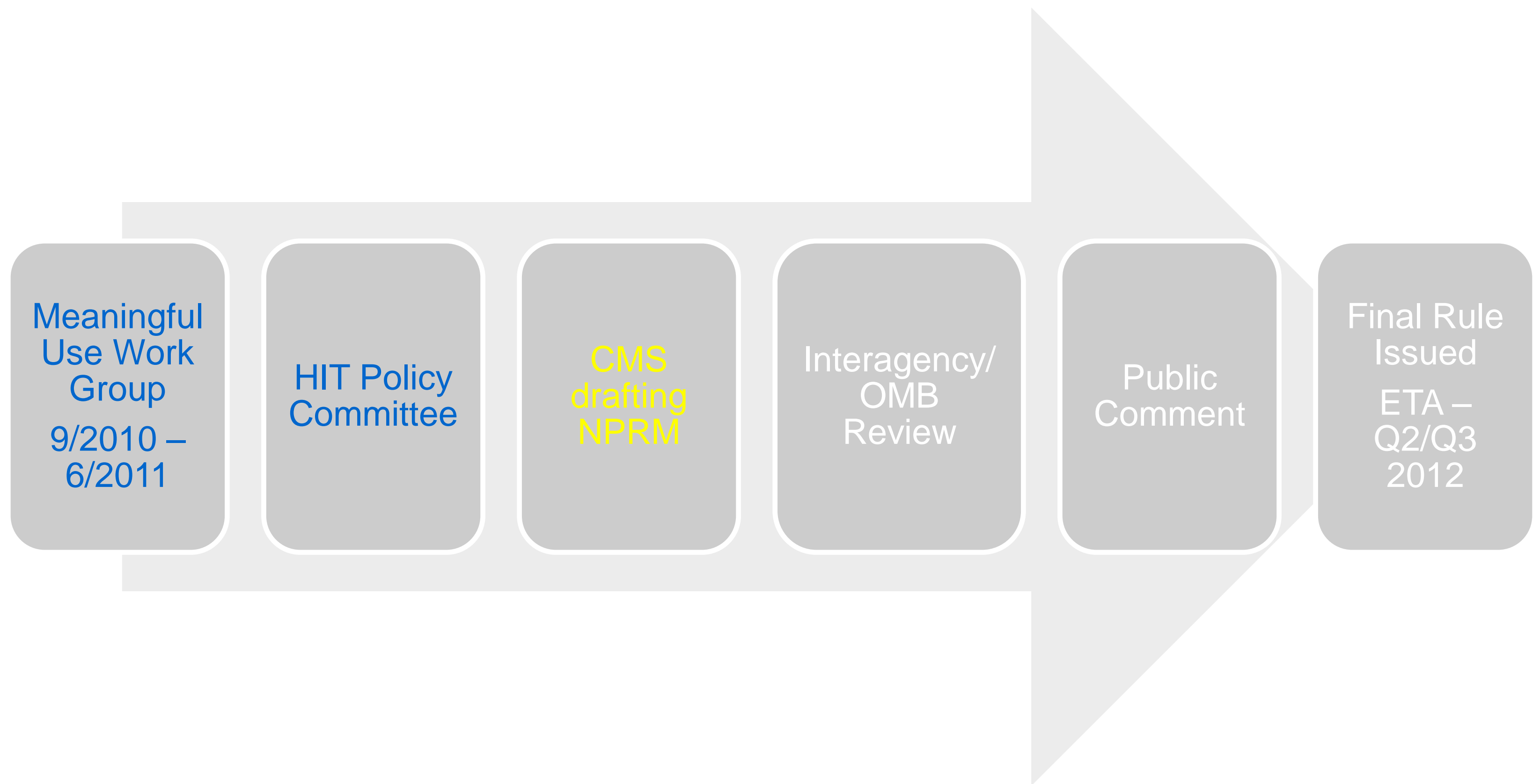
Meaningful Use Stage 1 Summary

- Stage emphasis on promoting adoption
- 25 criteria organized around 5 health outcome priorities
  - Improving Quality, Safety and Efficiency and Reducing Disparities
  - Engage Patients and Families in Care
  - Improve Care Coordination
  - Improve Population and Public Health
  - Ensure privacy and security for personal health information
- Core criteria vs. menu to provide flexibility; EPs and Hospitals may defer up to 5 of the 10 menu criteria for Stage 1
- Clinical quality measures (15 inpatient; 6 ambulatory (3 core and 3 from 38 proposed noncore))
- 90-day reporting period via attestation

Stage 1 Update

- Stage 1 began last October (for hospitals) and last January (for eligible professionals)
- As of August 30th, approximately 1,900 hospitals and 89,000 eligible professionals had registered with the EHR incentive program
- Registrations to date are below CMS projections
- EP registration breakdown by specialty: Internal medicine (22%); family practice (20%); cardiology (8%); GI (5%); other specialties in single digits
- Total Medicare incentive payout as of August 30th = $42 million to EPs ($18 million in August alone); $220 million to hospitals ($95 million in August alone)
- Total Medicaid incentive payout as of August 30th = $126 million to EPs; $262 million to hospitals
- Total EHR incentives paid out as of August 30th = $652 million
- October 3rd (yesterday) was last day for EPs to commence Stage 1 90-day reporting period to guarantee maximum incentive payout

Stage 2: A work in progress



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How will Stage 2 be different?

- Stage emphasis on promoting interoperability and HI exchange
- Proposed Changes from Stage 1:
  - Increase metrics and/or scope (i.e. CPOE increase from 30-60% of orders, add lab and radiology)
  - Move criteria from menu to core (i.e. drug formulary check)
  - New criteria proposed (i.e. progress note)
  - No change (i.e. “maintain active medication list for 80% of patients”)
- MU work group, HIT Policy Committee and ONC all support 1-year delay (to January 2014)
- 1-year reporting period
- Electronic reporting

How are ASCs impacted by HITECH?

- ASCs not eligible for EHR incentive funds and are barely mentioned in the final rule for the EHR Incentive Program
- ASC "inclusion" in Meaningful Use has arisen from CMS' subsequent interpretation of the final rule
- These interpretations can be found in CMS' Frequently Asked Questions (FAQ) posted online at CMS.gov and were also obtained from direct contacts with CMS officials
- ASC eligibility for HITECH funding has not been altered by these interpretations

The 50% threshold rule for EP eligibility

"To be a meaningful EHR user, an EP must have 50 percent or more of their patient encounters during the EHR reporting period at a practice/location or practices/locations equipped with certified EHR technology. For the purpose of calculating this 50 percent threshold, any encounter where a medical treatment is provided and/or evaluation and management services are provided should be considered a 'patient encounter.'" CMS FAQ 10592

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Defining ‘practice/location’ – does it include ASCs?

“(P)atient encounters in the ambulatory surgery center would be used in calculating the 50% threshold for certified EHR. Though ASCs themselves are not eligible to receive EHR incentive payments, EPs who have patient encounters in an ASC may be eligible provided that they are not considered hospital-based …As far as meeting the measures and reporting, as long as an EP has certified EHR technology **available** for 50 percent or more of their patient encounters during the EHR reporting period, they only have to include those encounters where certified EHR technology is **available** at the start of the EHR reporting period. If the ASC has certified EHR technology, then those encounters would need to be included in the numerator/denominator of measures as appropriate.” CMS email response (bold added)

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Must an ASC be physically equipped with an EHR system?

“We (CMS) don't specify the physical location of certified EHR, just that certified EHR must be used to meet the measures of the meaningful use objectives. There are a variety of configurations that certified EHR could take and it would be impossible for CMS to detail each one.” CMS email response

Accessing an office EHR system via online access

"If certified EHR technology is available at the ASC (either because the ASC implements it **or the physicians certified EHR technology is portable through a laptop or online access**), then the encounters at the ASC would be included in the meaningful use calculations and towards the 50% threshold for eligibility." (emphasis added) CMS email response

Recording an ASC encounter when the ASC cannot link to certified EHR technology

- “(A)n EP may include patients seen in locations without certified EHR technology in the numerators and denominators of meaningful use measures if the patients' information is entered into certified EHR technology at another practice location.” CMS FAQ 10475

- CMS noted that the above statement does not apply to the e-Prescribing or CPOE criteria, which for practical purposes needs to be done on-site

To sum up…

- Patient encounters in an ASC can help an EP qualify for ‘meaningful use’ incentives
- In order for the ASC encounter to qualify, <u>one</u> of the following must occur:
  - ASC has certified EHR technology installed onsite where patient encounters are recorded – disadvantages of cost, change in workflow and separate patient records;
  - ASC encounter is recorded in real time via online link to EP’s office EHR system – requires technical connectivity and likely use of ASC staff time to record data;
  - EP conducts the ASC encounter and later records it on a certified system upon returning to his/her office – not very practical, may lead to data entry errors or omissions and not an option for e-Prescribing or CPOE;
  - Some other “configuration” that allows the EP to record the ASC encounter using certified EHR technology

Unintended Consequences

- CMS will not reimburse for a pre-procedural consult conducted in a GI's office, thereby incenting the doctor to conduct more of their patient encounters in the ASC, but…
- The HITECH requirement that 50% or more of patient encounters occur in a setting equipped with certified EHR technology actually incents GI physicians to first see those patients in their offices.
- Radiologists and pathologists have voiced similar concerns
- GI groups have approached CMS about resolving this contradiction
- Clarification may be forthcoming in the proposed rule for Stage 2 of Meaningful Use (Q1 2012)

Additional federal drivers of HIT in ASCs

- ASC Quality Reporting Program
  - Begins on January 1, 2012;
  - CMS will eventually require electronic reporting for all its quality programs
- ASC Value-based Purchasing Program
  - Planning authorized by Affordable Care Act
  - CMS recently issued its report to Congress
  - Reporting under VBP will eventually be electronic
  - CMS waiting for formal Congressional authorization to launch the program
- Accountable Care Organizations
  - Authorized by the Affordable Care Act
  - Final regulations forthcoming before the end of the year
  - ACO model is heavily reliant on the use of HIT for care coordination and quality reporting

Questions?

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