



# Minnesota's State Medicaid HIT Plan Addendum

November 1, 2014

## 1. Introduction

The United States Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS) published a final rule (Vol. 79, No. 171) in the Federal Register on September 4, 2014, providing flexibility in the Certified Electronic Health Record Technology (CEHRT) required for use by health care providers to meet meaningful use (MU) in the Electronic Health Record (EHR) Incentive Program for 2014.

According to the original CMS rule for the EHR incentive program, eligible professionals (EPs), hospitals and critical access hospitals (CAHs) who attest to meaningful use for program year 2014 must use 2014 Edition CEHRT. Until 2014, EHRs had a 2011 Edition certification. However, many EHR vendors were unable to modify their systems to accommodate all of the Stage 2 certification requirements for their modules by 2014, so many providers or hospitals were unable to attest for program year 2014. This problem created a lot of concern, and CMS received feedback from associations, providers, and hospitals. Nationally, over 350,000 providers had been paid by the end of February 2014; Minnesota had paid almost 2,500 providers by then.

On September 4, 2014, CMS published the 2014 CEHRT Flexibility Rule, which revises the timeline for meaningful use stages and the definition of the CEHRT to allow options in the use of CEHRT for the 2014 program year. The revised rule allows providers to attest to Stage 1 meaningful use with an EHR having one of the following certifications: for 2011 only, for a combination of 2011 and 2014, or for 2014. The delay in availability of 2014 Edition CEHRT must be attributable to the issues related to software development, certification, implementation, testing or release of the product by the EHR vendor, which then results in the inability of a provider to fully implement 2014 Edition CEHRT in time to meet the previous 2014 attestation requirement.

The Minnesota Department of Human Services (DHS) submits this addendum to the State Medicaid Health Information Technology Plan (SMHP) to describe the changes we applied to the Minnesota EHR Incentive Program (MEIP) system, policies and procedures to accommodate the final rule.

## 2. Minnesota EHR Incentive Program (MEIP) System and Operational Changes

In cooperation with our Medicaid EHR Incentive Program vendor, CGI, DHS implemented a new release of the MEIP State Level Repository (SLR) system on October 1, 2014, to accommodate the 2014 CEHRT flexibility option. The SLR changes made to the CGI Medicaid EHR Incentive360 (MI360) baseline

product accommodate the regulations and subsequent CMS guidance for the 2014 CEHRT flexibility option. Specifically, the SLR was modified as follows:

- Providers who are attesting to MU for program year 2014 are asked whether they are taking advantage of the 2014 CEHRT flexibility option.
  - If they answer “Yes,” they are required to enter a description explaining the circumstances that allow them to take the flexibility option.
  - If they answer “No,” the SLR directs them to attest according to the standard program year 2014 rules based on prior attestations and meaningful use stage.
  - Beginning in mid-November, the SLR will require providers answering “Yes” to upload signed documentation from either the vendor or the provider explaining the issues with the 2014 CEHRT.
- The system does not guide or evaluate the text explanations entered by providers who are utilizing the exception.

## **2.1 SLR 2014 Flexibility Options**

This section describes how the SLR accommodates the Medicaid EHR Incentive Program participants that take advantage of the 2014 CEHRT flexibility option by attesting that they are unable to fully implement 2014 Edition CEHRT because of issues related to 2014 Edition CEHRT availability.

The SLR provides and enforces the different attestation options presented in the 2014 CEHRT final rule. Specifically, the provider is required to select one of the following CEHRT options:

- 2011 Edition CEHRT
- Combination of 2011 and 2014 Edition CEHRT
- 2014 Edition CEHRT

The meaningful use stage and version options allowed with each type of CEHRT are provided in subsequent sections.

The MEIP system will continue to utilize the Office of National Coordinator for Health Information Technology (ONC), Certified EHR Product List web-service to validate the CMS CEHRT numbers attested to by the providers to ensure they are valid and consistent with the edition they selected.

### **2011 Edition CEHRT**

Providers stating that they are using 2011 Edition CEHRT are only allowed to attest to the 2013 Stage 1 Objectives and Measures, regardless of whether they were scheduled for stage 1 or stage 2.

### **Combination 2011 and 2014 Edition CEHRT**

Providers electing to use the combination 2011 and 2014 Edition CEHRT have the following options, based on whether they were scheduled to be stage 1 or stage 2 meaningful users in 2014:

- Scheduled for stage 1 in 2014
  - 2013 Stage 1 Objectives and Measures; or
  - 2014 Stage 1 Objectives and Measures
- Scheduled for stage 2 in 2014
  - 2013 Stage 1 Objectives and Measures; or
  - 2014 Stage 1 Objectives and Measures; or
  - Stage 2 Objectives and Measures

We expect that most providers that attest using the combination of 2011 and 2014 Edition CEHRT will choose the first option (2013 Stage 1 Objectives and Measures).

### **2014 Edition CEHRT**

Providers electing to use 2014 Edition CEHRT have the following options, based on whether they were scheduled to be stage 1 or stage 2 meaningful users in 2014:

- Scheduled for stage 1 in 2014
  - 2014 Stage 1 Objectives and Measures
- Scheduled for stage 2 in 2014
  - 2014 Stage 1 Objectives and Measures; or
  - Stage 2 Objectives and Measures

## **2.2 Additional Rule Enforcement**

The preceding section presents the options for program participants based on the 2014 CEHRT flexibility rule. The following system constraints have been implemented to enforce the rule and prevent inconsistencies in the data and attestations:

- Providers electing to exercise the benefits of the 2014 CEHRT flexibility rule will be required to attest that they qualify for the exception by selecting their 2014 attestation method and entering an explanation.
- Providers will be required to fully attest to the set of objectives and measures based on the stage and year selected. For example, they are not provided the option or ability to attest to 2013 stage 1 objectives and 2014 stage 1 measures.
- The CMS Registration & Attestation (R&A) C5 transaction will determine dually-eligible hospitals' meaningful use status. (This is the "State, Dually Eligible Hospital Attestation Data" transaction, which is an indication that CMS has deemed the hospital as meeting meaningful use for the program year.) The SLR will not prompt or allow dually-eligible hospitals to enter any meaningful use attestation information.

### **3. Provider Outreach**

On October 1, 2014, DHS, through our vendor, CGI, notified all providers registered for the Medicaid EHR Incentive Program that the SLR had been revised to support the 2014 CEHRT flexibility option.

The MEIP web pages are being updated to include the status of the SLR to support the 2014 CEHRT flexibility option.

DHS notified the Regional Extension Center, REACH, that the system supports the rule as of the official launch date of October 1, 2014.

### **4. Changes in Prepayment Review**

DHS made minimal changes to the prepayment review process, following the guidance that CMS presented in response to comments on page 52,924 of the 2014 CEHRT final rule. CMS's response to requests for clarification on the types of documentation required for audit is that CMS will not require documentation at the time of attestation beyond what was needed to complete the attestation in the Registration and Attestation System. CMS also advises that they will provide further guidance to state auditors at a later time, emphasizing that it will be based on the provider's individual case.

Based on this guidance, DHS did not implement any supporting documentation requirements for providers initially. During the prepayment review process, the reviewer analyzes the explanation entered by the provider to determine whether or not it is reasonable. Unreasonable explanations result in the provider's attestation being reset to "in progress," allowing the provider the opportunity to revise the explanation.

However, to facilitate the post-payment audit process, DHS requires signed documentation from either the vendor or the provider explaining the issues with the 2014 CEHRT. This will be required beginning November 5, 2014. The SLR will have a description of the three types of valid documentation to be submitted:

1. A vendor letter or communication documenting the unavailability of 2014 Edition software upgrade
2. A vendor letter or communication documenting the provider's inability to support the upgrade to 2014 Edition CEHRT during the program year
3. A signed letter from the provider stating that its inability to upgrade and use the 2014 Edition CEHRT was due to vendor delays or other qualifying events. The letter should include a list of all issues and events.

### **5. Postpayment Audit Changes**

DHS is evaluating the changes that will be made to the process for postpayment audits of providers that have taken advantage of the 2014 CEHRT flexibility option. All attestations, regardless of CEHRT approach, remain subject to the current DHS audit plan.