

April 23, 2020

## HHS to Publish Final Rules on Interoperability with Certain Delays in Compliance, Enforcement Deadlines

The Centers for Medicare & Medicaid Services and the Office of the National Coordinator (ONC) for Health IT this week announced the final interoperability rules will be published in the Federal Register May 1 with changes in certain compliance and enforcement deadlines. The rules were originally released on March 9.

Due to the COVID-19 emergency, CMS will give hospitals until May 1, 2021 to [implement admission, discharge and transfer notification requirements](#). CMS originally intended to make compliance effective six months after publication of the final rule.

In conjunction with CMS, ONC also will publish its [final rule](#) implementing 21<sup>st</sup> Century Cures Act provisions on interoperability, information blocking and the Health IT Certification Program. While ONC will not enforce certain compliance dates and timelines for three months after they take effect, compliance with the information blocking provisions will be required beginning Nov. 2, 2020.

The HHS Office of Inspector General (OIG) released a [related proposed rule](#) to incorporate new authorities for civil monetary penalties for information blocking by health IT developers, health information exchanges and health information networks. Enforcement for providers under the information blocking regulations is deferred to future rulemaking.

**AHA Take:** During these unprecedented times, the nation's hospitals and health systems should be supported in their efforts to care for patients and communities. While we are encouraged that CMS is providing some much-needed flexibility by delaying certain provider compliance deadlines in the final interoperability rule, ONC did not take the same proactive posture in the final information blocking rule. Hospitals and health systems need to remain focused on caring for their patients and communities, rather than compliance with complex regulations, as they battle the COVID-19 pandemic.

**Next Steps:** Please share this with your hospital or health system leadership team, chief information officer, and compliance officer. For questions, contact Samantha Burch, AHA director of health information technology policy, at (202) 626-2313 or [sburch@aha.org](mailto:sburch@aha.org).

### Key Takeaways

[ONC's rule](#) finalized policies to:

- Create eight exceptions to the prohibition on information blocking by providers, vendors and exchange networks, including, among others, privacy, security and responding to requests that are infeasible. This requirement is effective November 2020.
- Adopt the HL7 FHIR standard for application program interfaces (APIs).
- Develop full data export capabilities for an individual patient and providers switching EHR systems.
- Promulgate additional conditions of certification and maintenance of certification requirements for health IT developers.

[CMS's rule](#) finalized policies to:

- Require electronic notification of inpatient admission, discharge and transfer as a hospital condition of participation in Medicare and Medicaid. The agency has pushed back the compliance date by six months to spring 2021.
- Require payers and plans participating in Medicare, Medicaid, CHIP and federally facilitated exchanges to provide access to enrollee claims and other information through APIs by 2021. CMS will provide a six month period of enforcement discretion.