

# Being Ready for a CMS Meaningful Use Audit

At the end of September 2014, the Centers for Medicare & Medicaid Services (CMS) had paid out more than \$25.4 billion in meaningful use incentives to nearly 415,000 eligible professionals (EPs) and eligible hospitals for adopting, implementing, upgrading, or meaningfully using electronic health records (EHR).<sup>1</sup> Of the total incentive payments, eligible hospitals received \$15.2 billion and EPs received \$10.2 billion.

To meet the goals and objectives of the Medicare and Medicaid EHR Incentive Programs, which began issuing incentive payments in 2011, in the past two years, CMS has stepped up the number of audits it does to monitor the compliance of program participants. To help participants prepare for a CMS audit, several publications on the [CMS website](#) explain the meaningful use audit process and what a provider can expect if selected for an audit, and they provide a sample audit notification letter and audit documentation request list. The publications offer guidance on the supporting documentation providers should maintain in case of an audit as well as general information about the audit determination, the appeal process for an unfavorable determination, and the repayment of incentives for failed audits.

According to information CMS released recently,<sup>2</sup> the failure rate of meaningful use audits is staggering. One in four EPs did not pass its postpayment audit, and providers and hospitals that do not pass the audits must return the incentive payments within 30 days of receipt of the final audit determination. Repayments could range from thousands to millions of dollars. Overall, CMS expects to recoup about \$18 million from providers and nearly \$33 million from hospitals for meaningful use audit failures.

Following is a summary of the results, as of Sept. 16, 2014, of the CMS meaningful use audits performed.<sup>3</sup>

## Prepayment Audits – Eligible Professionals Only

- 3,820 of the 5,825 selected prepayment audits (66 percent) have been completed, and more than 2,000 were still in progress.
- 21 percent (802) of audited EPs did not meet meaningful use requirements.
- About 93 percent of those 802 EPs did not meet “appropriate objectives and associated measures,” according to CMS, and 7 percent did not use a certified EHR when attesting.

## Postpayment Audits – Eligible Professionals Only

- 4,780 EPs that had received their incentive payment have been audited.
- About 23 percent (1,106) of the audited EPs failed the postpayment audit.
- 99 percent of those 1,106 EPs did not meet the “appropriate objectives and associated measures” and 1 percent did not use a certified EHR when attesting.
- Payments to be returned by EPs (pending an appeal) ranged from \$41.92 to \$19,800 per provider. The average incentive payment proposed for return (pending an appeal) was \$16,863.



## Postpayment Audits – Eligible Hospitals<sup>4</sup>

- Postpayment audits have been completed for 94 percent of the 651 hospitals that were selected for these audits.
- 4.7 percent of the audited hospitals failed, a much lower failure rate than EPs had.
- CMS did not include reasons for failure; however, CHAN Healthcare has identified common reasons for failure, including weak security risk analysis, inadequate documentation, lack of evidence, and failure to use a certified and complete EHR.
- Incentive payments to be returned, pending an appeal, ranged from \$280,414 to \$3,430,591.
- The average incentive payment proposed for return (pending an appeal) was \$1,132,937.

To preserve the incentive dollars already received for doing the hard work of implementing certified EHR technology, healthcare organizations should take the time to evaluate their meaningful use compliance. Among the factors they need to consider are their:

- Current attestation process and practice
- Recording of relevant supporting attestation documentation
- Preparation of documentation that demonstrates meaningful use of the certified EHR technology
- Archiving of all relevant audit defense documentation so that it is readily accessible in the event of an audit

Healthcare organizations should engage their internal auditors and meaningful use specialists to develop programs that effectively monitor and sustain compliance with the meaningful use program and enable management to prepare for a CMS meaningful use audit.

## Conclusion

The rising number of meaningful use audits and recent information about failure rates reinforce the message that CMS is serious about eligible professionals and hospitals complying with the goals and objectives of the EHR meaningful use incentive program. Professionals and hospitals that fail their meaningful use audits are required to return their previously received incentive dollars to CMS immediately. Although providers may appeal an unfavorable audit determination, the likelihood of reversing the decision – which requires significant resources, good audit defense documentation, and a well-measured response – is low. To protect and preserve the incentive dollars they have already received, professionals and hospitals should engage their internal audit teams or meaningful use specialists to confirm that solid documentation of meaningful use, ready to be used for a meaningful use audit and audit defense, is in place.

## Contact Information

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<sup>1</sup> “EHR Incentive Program,” CMS, [http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Downloads/September2014\\_SummaryReport.pdf](http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Downloads/September2014_SummaryReport.pdf)

<sup>2</sup> CMS provided this information to Steve Spearman, of advisory firm Health Security Solutions, in November 2014, nine months after he filed a *Freedom of Information Act* request. See “What You Need to Know About Meaningful Use Audits,” HealthDataManagement.com, Nov. 6, 2014, <http://www.healthdatamanagement.com/gallery/what-you-need-to-know-about-meaningful-use-audits-49183-1.html>

<sup>3</sup> Ibid.

<sup>4</sup> Hospitals have not been audited on a prepayment basis.