

## **EHR/EMR "Meaningful Use" and Certification**

**by**

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The American Recovery and Reinvestment Act of 2009 (ARRA), contains the provisions for Health Information Technology for Economic and Clinical Health (HITECH). Through HITECH, the Department of Health and Human Services (HHS)<sup>1</sup> intends to incentivize healthcare providers to engage in "meaningful use" of "certified" EHR or EMR. Until recently, the definition of "meaningful use" has been speculative. On January 13, 2010, the Centers for Medicare and Medicaid Services, a division of HHS, released Notices of Proposed Rule Making (NPRMs)<sup>2</sup> which provide some additional guidance regarding "meaningful use" and "certified" EHR/EMR.

Healthcare providers will likely find these NPRMs still fall short of perfect clarity, but this regulatory rule-making activity by HHS does represent a meaningful step in defining "meaningful use." It is still too early to succinctly state in a tidbit like this, what a given EHR/EMR software product must have to establish "meaningful use," but there is now technical guidance for software vendors to work with in developing and deploying their products.

Most interestingly, on March 2, 2010, HHS released a draft of a separate NPRM which will set up a temporary certification program for EHR/EMR technology vendors.<sup>3</sup> HHS intends that this certification program assist providers in selecting EHR/EMR technology that meets HHS-approved standards for "meaningful use." For you as a provider of healthcare, this means that in the near future there may be a permanent HHS Certification program for EHR/EMR

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<sup>1</sup> See <http://www.hhs.gov/>.

<sup>2</sup> See the Federal Register: January 13, 2010 (Volume 75, Number 8), Page 1843-2011.

<sup>3</sup> See <http://healthit.hhs.gov/portal/server.pt?open=512&mode=2&objID=1745>.

vendors to use in assuring you that their products meet the "meaningful use" qualifications for any applicable incentives. For more on what those incentives are, watch this space. Of course, this tidbit is not a substitute for independent legal counsel on these complex matters.