

# Meaningful Use: 2016 Reporting & Potential Relief from Penalties

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Although 2016 has come to a close, the time is now to report for the Electronic Health Record (EHR) Incentive Program. As confirmed in November, the reporting period is any 90 consecutive days during 2016. The criteria were drastically reduced from prior years, so it may be an opportune time to report even if you weren't as diligent in monitoring your compliance this year. The attestation system is open from January 3 to February 28, 2017; to report, click [here](#).

What's on the line? A negative 3% payment adjustment applied to all Medicare reimbursement in 2018. The 2016 reporting year is the final year of the program, although the federal government is migrating to the Merit-based Incentive Payment System (MIPS), which includes a category that mirrors the current Meaningful Use requirements, that of Advancing Care Information.

More and more physicians are experiencing penalties related to the failure to participate in the EHR Incentive Program. To determine if your payments are being adjusted, look at your Medicare remittances. If you see the code, CO237 – Contractual Obligation-Legislative Penalty- alongside the remark, N700 EHR Incentive Program, the adjustment is being applied to you. Click [here](#) for more information about the adjustment.

Successful participation is the best way to avoid the penalties; however, there are two options available to potentially halt them – and thus, save you thousands of dollars.

First, let's review the opportunity to reverse the adjustment that is currently being imposed. The Centers for Medicare & Medicaid Services recently released the 2017 EP Reconsideration Application, indicating that the application was appropriate for physicians who "received a letter from CMS stating that "you are subject to the 2017 Medicare EHR payment adjustment and feel that this payment adjustment is in error."

If you are being penalized in 2017, a reconsideration may be in order. A declaration is available for the following reasons, noting that you can choose more than one:

- New Eligible Professional (EP)
- Hospital-based EP (90% or more of services were performed in the inpatient setting or emergency department)
- PECOS-Related Issue (delay in change of ownership or revalidation)

- Specialty Exemption (05-Anesthesiology, 22-Pathology, 30-Diagnostic Radiology, 36-Nuclear Medicine, 94- Interventional Radiology)
- Experienced a 2017 Hardship Issue
- EP was approved a 2017 Hardship or is exempt from the payment adjustment AND received the 2017 payment adjustment letter
- Certified Electronic Health Record Technology (CEHRT) Vendor Issues
- Meaningful use attestation issues for 2015
- Closure of Practice
- Ineligible Provider (e.g., Nurse Practitioner or Physician Assistant)

CMS requests a brief description of the reconsideration, offering a blank space on the application for you to document your reason(s). As is obvious from the generic verbiage – “Meaningful use attestation issues for 2015,” and “CEHRT Vendor Issues,” as examples, the application may offer the opportunity to be relieved of the penalties if you offer a compelling explanation. If you tried to participate, but encountered obstacles that prevented you from being successful, take the time to complete the documentation. You’ll find the application available at [this link](#). There is no downside to applying; the submission deadline is February 28, 2017.

Second, the 2018 penalty, which is based on the reporting year of 2016, may also be avoided. CMS, however, has not yet announced the details of who can apply or how the process will work. In the summary of the November 1, 2016 OPPI Final Rule, CMS states: “CMS is finalizing proposals that certain EPs, who are new participants in the EHR Incentive Program in 2017 and are transitioning to MIPS in 2017, can apply for a significant hardship exception from the 2018 payment adjustment...using a CMS developed hardship exception application process specific to this policy.” The particulars have not yet been released, but this is good news for those who have not participated in the EHR Incentive Program in the past.\*

Although the EHR Incentive Program has come to a close, its payment adjustments will linger until the conclusion of 2018. However, these options may offer relief from the potential penalties.

*\*Stay tuned, as we’ll cover this new hardship exception process in an upcoming issue of the SVMIC Sentinel, after CMS releases the details.*

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