



### **How to Avoid the 2017 Meaningful Use Penalty**

Prior to adjourning for the holidays, Congress passed the Patient Access and Medicare Protection Act (PAMPA), which directed the Centers for Medicare and Medicaid Services (CMS) to make AMA-supported changes to the Medicare EHR Incentive Program hardship exception process that allows physicians to avoid a Meaningful Use (MU) penalty in 2017.

**The AMA is encouraging ALL physicians subject to the 2015 Medicare MU program to apply for the hardship.** CMS has stated that it will broadly accept hardship exemptions because of the delayed publication of the program regulations. Applying for the hardship will not prevent a physician from earning an incentive. It simply protects a physician from receiving an MU penalty. Therefore, physicians who believe that they met the MU requirements for the 2015 reporting period should still apply for the hardship protection. Note that the program operates on a two-year look-back period, meaning that physicians who are granted an exception for the 2015 program will avoid a financial penalty for 2017.

Step-by-step instructions for completing the hardship exception application follow below:

- Step One:* Access the [instructions](#) and download the [application](#). You can type directly into the application on your computer if you plan to submit the application via email (more on this in Step Seven). Note that CMS “strongly recommends” submission via email, but if that is not possible, the application should be printed out and completed using blue or black ink. Do not use pencil.
- Step Two:* In Section 1.1, provide information for the person working on behalf of the physicians to apply for the hardship exception. **Note that, for the first time, an individual may apply on behalf of a group of physicians.** This individual may be the physician applicant him/herself or the individual filling out the information on behalf of a physician group (for example, a member of the group’s administrative staff). This step is very important because CMS will provide notice of its hardship exception decisions – which are final and cannot be appealed – via the email address provided on the application.
- Step Three:* In Section 2, check the box beside the hardship exception reason that best applies to your circumstances. **The AMA is encouraging physicians to apply for a hardship exemption under the “EHR Certification/Vendor Issues (CEHRT Issues)” category (Option 2.2.d in the application), even if they are uncertain whether they will meet the program requirements this year. Because of the delay in publication of the regulation, this category will apply to all physicians. Further, given the delay of the regulations and these updates to the hardship application, CMS has stated that they will refrain from auditing physicians who file under Option 2.2d.** A physician who qualifies for more than one hardship exception category may select all of the options applicable to his or her practice; however, one category will suffice.
- Step Four:* Skip Section 3. This section only applies to hospitals.
- Step Five:* In Section 4, list the NPI, first name, and last name for each physician applicant. **Again, multiple providers and provider types may apply as a group using a single submission.** Failure to provide each physician’s NPI will result in a delayed hardship

exception decision by CMS. In addition to listing each physician's information on the application itself, CMS will accept physician identification contained in the following formats: Microsoft Excel (.xls or .xlsx), comma delimited (.csv), or text file (.txt).

*Step Six:* In Section 5, check the box marked "Confirm" and enter the date of application and the name of the individual completing the form.

*Step Seven:* Submit the application to CMS. If you are submitting the application electronically, attach the application to an email addressed to [ehrhardsip@provider-resources.com](mailto:ehrhardsip@provider-resources.com). If an electronic submission is not feasible, fax the application to **814-456-7132**. If you have listed the required physician identification in a separate file as described in Step Five above, be sure to attach it to your email or include it with your fax. No additional documentation is required to be submitted to CMS; however, physicians should keep a copy of their application and any documentation supporting hardship exceptions claimed in addition to Option 2.2.d.

If granted, an exemption will prevent penalties for the **2017 payment year**. This hardship exception application **will not** affect payment adjustments for 2016. **The application must be received by CMS by 11:59PM ET on March 15, 2016.** CMS has not said when applicants will be notified of CMS' decision.