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## 42 C.F.R. § 495.40

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### Demonstration of meaningful use criteria.

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(a) *Demonstration by EPs.* An EP must demonstrate that he or she satisfies each of the applicable objectives and associated measures under § 495.20, § 495.22 or § 495.24, supports information exchange and the prevention of health information blocking, and engages in activities related to supporting providers with the performance of CEHRT:

(1) For CY 2011

(i) *Attestation.* Attest, through a secure mechanism, in a manner specified by CMS (or for a Medicaid EP, in a manner specified by the State), that during the EHR reporting period, the EP—

(A) Used certified EHR technology, and specify the technology used;

(B) Satisfied the required objectives and associated measures under § 495.20 or § 495.24;

(C) Must specify the EHR reporting period and provide the result of each applicable measure for all patients seen during the EHR reporting period for which a selected measure is applicable;

(ii) *Additional requirements for Medicaid EPs.* For Medicaid EPs, if, in accordance with §§ 495.316 and 495.332, CMS has approved a State's revised definition for meaningful use, in addition to meeting paragraphs (a)(1)(i) through (ii) of this section, the EP must also demonstrate meeting the State revised definition using the method approved by CMS; and

(iii) *Exception for Medicaid EPs.* If a Medicaid EP has adopted, implemented or upgraded certified EHR technology in the first payment year, the EP need not demonstrate meaningful use until the second payment year, as described in § 495.20 or §§ 495.24 and 495.40.

(2) For CY 2012 and subsequent years—

(i) *Attestation.* Attest, through a secure mechanism, in a manner specified by CMS (or for a Medicaid EP, in a manner specified by the State) that during the EHR reporting period, the EP—

(A) Used certified EHR technology and specify the technology used.

(B) For calendar years before 2015, satisfied the required objectives and associated measures under § 495.20 for the EP's stage of meaningful use.

(C) Must specify the EHR reporting period and provide the result of each applicable measure for all patients seen during the EHR reporting period for which a selected measure is applicable.

(D) For 2014 only, if the EP uses one of the options specified in § 495.20(a)(4) or (h)(3), the EP must attest that he or she is unable to fully implement 2014 Edition certified EHR technology for an EHR reporting period in 2014

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due to delays in 2014 Edition certified EHR technology availability.

(E) For CYs 2015 through 2016, satisfied the required objectives and associated measures under § 495.22(e) for meaningful use.

(F) For CY 2017 and CY 2018: An EP that has successfully demonstrated it is a meaningful EHR user in any prior year may satisfy either the objectives and measures specified in § 495.22(e) for meaningful use or the objectives and measures specified in § 495.24(d) for meaningful use; an EP that has never successfully demonstrated it is a meaningful EHR user in any prior year must satisfy the objectives and measures specified in § 495.22(e) for meaningful use.

(G) For CY 2019 and subsequent years, satisfied the required objectives and associated measures under § 495.24(d) for meaningful use.

(H) Supporting providers with the performance of CEHRT (SPPC). To engage in activities related to supporting providers with the performance of CEHRT, the EP—

(1) Must attest that he or she:

(i) Acknowledges the requirement to cooperate in good faith with ONC direct review of his or her health information technology certified under the ONC Health IT Certification Program if a request to assist in ONC direct review is received; and

(ii) If requested, cooperated in good faith with ONC direct review of his or her health information technology certified under the ONC Health IT Certification Program as authorized by 45 CFR part 170, subpart E, to the extent that such technology meets (or can be used to meet) the definition of CEHRT, including by permitting timely access to such technology and demonstrating its capabilities as implemented and used by the EP in the field.

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