MEDICARE AND MEDICAID PROMOTING INTEROPERABILITY PROGRAMS PREVENTION OF INFORMATION BLOCKING ATTESTATION FACT SHEET

To prevent actions that block the exchange of health information, the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) and the Quality Payment Program final rule with comment period[1] require eligible professionals (EPs), eligible hospitals and critical access hospitals (CAHs) that participate in both the Medicare and Medicaid Promoting Interoperability Programs to show that they have not knowingly and willfully limited or restricted the compatibility or interoperability of their certified electronic health record technology (CEHRT). EPs, eligible hospitals, and CAHs are required to show that they are meeting this requirement by attesting to three statements about how they implement and use CEHRT. Together, these three statements are referred to as the "Prevention of Information Blocking Attestation."

Do I Have to Attest?

If you are an EP, eligible hospital or CAH participating in the Medicare and Medicaid Promoting Interoperability Programs you must attest to the Prevention of Information Blocking Attestation.

What Actions Are Required?

In order to submit an attestation, you have to act in good faith when you implement and use your CEHRT to exchange electronic health information. This includes working with technology developers and others who build CEHRT to make sure the technology is used correctly and is connected (and enabled) to meet applicable standards and laws.

You must also ensure that your organizational policies and workflows are enabled and do not restrict the CEHRT's functionality in any way. For example, if your CEHRT gives patients access to their electronic health information or exchanges information with other health care providers, your practice must use these capabilities.

We recognize that circumstances beyond a health care provider's control may limit the exchange or use of electronic health information. This is why the Prevention of Information Blocking Attestation focuses on whether you act in good faith to exchange electronic health information and your particular situation. This focus takes into account individual circumstances, such as:

---

[1] Medicare Program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive Under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models, 81 FR 77008 (Nov. 4, 2016).

- Your practice or organization size
- How much technology you have
- What your CEHRT can do

What the attestation does not do:

- Assume how much you know about technology
- Hold you responsible for outcomes you cannot reasonably influence or control

Statements to Which I am Attesting

The Prevention of Information Blocking Attestation has three related statements that are based on section 106(b)(2) of the MACRA about how health care providers implement and use CEHRT. When you attest to these three statements together, you are confirming that you have acted in good faith to:

- Support the appropriate exchange of electronic health information
- Not knowingly and willfully limit or restrict the compatibility or interoperability of the CEHRT

Here are the details about each of the three statements:

Statement 1: A health care provider must attest that they did not knowingly and willfully take action (such as to disable functionality) to limit or restrict the compatibility or interoperability of CEHRT.

Statement 1 requires health care providers to demonstrate that they did not knowingly and willfully take action to limit or restrict the compatibility or interoperability of CEHRT. Statements 2 and 3 build on Statement 1, giving more details about what health care providers have to do to comply with the statute's requirements. The details in Statements 2 and 3 can help you to:

- Understand what is required
- Comply
- Give an attestation that shows us you have complied

Statement 2: A health care provider must attest that they implemented technologies, standards, policies, practices, and agreements reasonably calculated to ensure, to the greatest extent practicable and permitted by law, that the CEHRT was, at all relevant times:

1. **Connected in accordance with applicable law;**

2. **Compliant with all standards applicable to the exchange of information, including the standards, implementation specifications, and certification criteria adopted at 45 CFR Part 170;**

3. **Implemented in a manner that allowed for timely access by patients to their electronic health information (including the ability to view, download, and transmit this information); and**

4. **Implemented in a manner that allowed for the timely, secure, and trusted bi-directional exchange of structured electronic health information with other health care providers (as defined by 42 U.S.C. 300jj(3)), including unaffiliated providers, and with disparate CEHRT and health information technology (HIT) vendors.**

Statement 2 focuses on how you implement your CEHRT. By attesting to this statement, you are confirming that you acted in good faith to implement your CEHRT in a way that supported and did not restrict access to the exchange of electronic health information.

More specifically, Statement 2 asks you to confirm that you took reasonable steps to implement:

- Corresponding technologies
- Standards
- Policies
- Practices
- Agreements to enable the use of CEHRT and not restrict appropriate access to or use of your CEHRT's information

These are examples of actions that may restrict compatibility or interoperability:

- Implementing or configuring CEHRT so access to certain types of data elements or to the "structure" of the data is limited
- Implementing CEHRT in ways that limit the people or entities that can access and exchange information, or the types of technologies they can use

We do not expect you to have any special technical skills or to personally deal with the technical details of implementing your HIT. We also do not expect you to have direct knowledge of all the matters described in Statement 2.

We do expect that you take reasonable steps to ensure that you can attest that you meet the conditions described in Statement 2. To be clear, you should inform HIT developers, implementers, and others who are responsible for implementing and configuring your CEHRT of the requirements. Also, you should get adequate assurances from them that your CEHRT was connected:

- To meet the standards and laws that apply
- In a way that enables you to show you have not knowingly and willfully restricted its compatibility or interoperability

Statement 3: A health care provider must attest that they responded in good faith and in a timely manner to requests to retrieve or exchange electronic health information, including from patients, health care providers (as defined by 42 U.S.C. 300jj(3)), and other persons, regardless of the requestor's affiliation or technology vendor.

Statement 3 focuses on how you actually used CEHRT. By attesting to this statement, you are confirming that you acted in good faith to use your CEHRT to support the appropriate exchange and use of electronic health information. For example, you will need to take reasonable steps to respond to requests for access or exchange of information when it is appropriate, and not discriminate because of the requestor's affiliation, technology vendor, or other characteristics.

You can still attest to statement 3 if, in good faith, you restricted access to information for reasonable purposes, like to make security upgrades or keep patients safe. You also will not be responsible for restricting exchange or interoperability that you could not have reasonably controlled.

Do I Have to Show Any Documentation to Attest?

You do not have to give us any documentation to show you have acted in good faith to:

- Implement and use your CEHRT to support the appropriate exchange of electronic health information
- Not block information

For More Information

Visit the CMS Promoting Interoperability Programs website to learn more about the requirements for the Promoting Interoperability Programs.