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New Regulations Outline Content, Transmission Standards for Every Americans' Electronic Health Records

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(CNSNews.com) – New regulations issued by the Department of Health and Human Services (HHS) on Tuesday outline federal standards for the electronic health records that every American must have by 2014.

The regulations, developed by the Centers for Medicare and Medicaid Services (CMS) and the National Coordinator for Health Information Technology and issued by HHS Secretary Kathleen Sebelius, are the first concrete step for the government as it pursues the goal – first outlined in the 2009 economic stimulus law – of making all health care providers use the electronic record systems by 2014.

If doctors or hospitals do not comply and insist on using the traditional paper record-keeping systems, the federal government will penalize them by docking their Medicare and Medicaid reimbursements, making it harder for them to stay in business.

If they choose to comply with the government's plan, doctors and hospitals can receive generous federal subsidies – as much as $64,000 per doctor and millions of dollars for hospitals – as an incentive for installing the systems.

According to Michael Tanner, a senior fellow and health care reform expert at the free-market Cato Institute, "just 17 percent of U.S. physicians are currently using electronic medical records for their patients," and for hospitals, "just 9.1 percent have even a basic system, and just 1.5 percent have a comprehensive system."

Where the electronic record systems do exist, moreover, they are often incompatible among many hospitals and physicians. "The unavailability and incompatibility of electronic medical records contributes to the unnecessary deaths of up to 8,000 people each year because of medication errors," reported Tanner in a 2009 report.

The new regulations unveiled this week spell out what the government considers a "complete" electronic health record (EHR) and what it considers "meaningful use" of such records. To comply with federal requirements, doctors and hospitals must make meaningful use of qualified EHR systems.

Under the new regulations, a complete EHR must be able to perform 25 distinct functions relating to what information can be entered into the record and how that record can be shared with other health care providers and, in some cases, the federal government.

The EHRs are designed to be digital replications of the hard-copy, paper health records commonly in use today. They are also engineered to be easily transferable among different doctors and hospitals so as to eliminate the creation of duplicate or disparate records among different health care providers, thus allowing any health care office to access a patient's complete medical record at each visit.

Among the content required for a complete EHR is an active medications list, vital signs, Body Mass Index (BMI) score, smoking status, comparative effectiveness data, lab test results, and insurance status. They must also record race, gender, and preferred language of patients, as well as send reminders to patients about follow-up visits and at-home care where applicable.

A complete EHR must also include a list of all past health problems, their causes, and the procedures used to treat or cure them.

The HHS envisions three stages of EHR use over time, with each stage further incorporating EHRs into the practice of medicine by 2014. The new regulations leave stages two and three undefined while the technology develops.

During stage one, EHR systems must demonstrate basic capabilities, such as transmitting public health data, checking for drug interactions, and maintaining an up-to-date list of illnesses, procedures, and treatments for 80 percent of patients.

The EHRs must also allow doctors to electronically prescribe medications as well as maintain an active list of medications taken by each patient, checking for both drug and allergic reactions for each medication.

To meet the meaningful use requirement in stage one, providers must meet at least 20 of the 25 total criteria.

They must also be portable and easily transferable between providers, in both walk-in and inpatient settings. The regulations state that records must be electronically transmittable between health care providers and emergency personnel.

However, as a CMS spokesman told CNSNews.com, due to technology infrastructure limitations, the EHRs will not have to be fully transmissible in stage one.

"Recognizing that the infrastructure for health information exchange varies across the country, the rule does not require this [transmissibility] in stage one," said the spokesman in an e-mail. "The rule only requires one test of this capability, not continual use."

The EHRs must also be encrypted and they must be sent over encrypted Internet connections. Access to EHRs must be tightly controlled and the EHR systems must record and save the identity information of each person who accesses the record, what information they accessed, and when they accessed the record.

The EHR systems must also record each time an EHR is updated, who updated it, and what portions of the EHR

were changed. The EHR system must also be able to check for and alert providers if records are changed in any way during transmission.

An EHR system must also be able to provide individual patients with an electronic copy of his or her medical record within three business days, if the patient requests it.