

Insights

ONC Extends Information Blocking Deadlines

November 3, 2020

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The U.S. Department of Health and Human Services' Office of the National Coordinator for IT ("ONC") **announced** a much-anticipated **interim final rule** with comment period ("Interim Rule"). As expected, the ONC extended various compliance dates and timeframes relating to its electronic medical record interoperability and information blocking final rule issued March 9, 2020 (the "Final Rule"). The Interim Rule is a response by ONC to the fact that many stakeholders in the industry are already stretched thin addressing the Covid pandemic. The information blocking provisions that were to become effective on November 2, 2020 have been postponed to April 5, 2021. In addition, various assurances required by the Final Rule relating to Conditions of Certification, Maintenance of Certification of health IT applications, and application programming interfaces have been extended to April 5, 2021. The interim rule is effective immediately, even though there is technically a comment period.

Implementation of the 2015 Edition of the Health IT certification criteria will be delayed until December 31, 2022, except for certain electronic health information export criteria which are extended through December 31, 2023. Standardized functionality for application program interfaces contained in the Final Rule have been extended through December 31, 2022. Finally, ONC extended the deadline by one year for the submission of (i) initial attestations by IT developers that their applications meet the Conditions and Maintenance of Certification requirements in the Final Rule; and, (ii) initial plans and results of real world testing required by the Final Rule.

ONC's Final Rule is impacting and will continue to significantly impact healthcare providers and electronic medical record information technology developers. The Final Rule implements the information blocking prohibition enacted by Congress in 2016 in the 21st Century Cures Act. The Final Rule adopts new detailed health information technology certification requirements designed to promote technological interoperability among providers and patients. As ONC states in its **press release**, it intends to enhance "patients' smartphone access to their health information at no cost through the use of application programming interfaces."

The following is a table that ONC published on its web page:

New Applicability and Compliance Dates/Timeframes & Corresponding Provisions		
April 5, 2021	December 31, 2022	One Calendar Year Extension

<ul style="list-style-type: none"> • Information blocking provisions (45 CFR Part 171) • Information Blocking CoC/MoC requirements (§ 170.401) • Assurances CoC/MoC requirements (§ 170.402, except for § 170.402(b)(2) as it relates to § 170.315(b)(10)) • API CoC/MoC requirement (§ 170.404(b)(4)) - compliance for current API criteria • Communications CoC/MoC requirements (§ 170.403) (except for § 170.403(b)(1) - where we removed the notice requirement for 2020) 	<ul style="list-style-type: none"> • 2015 Edition health IT certification criteria updates (except for § 170.315(b)(10) - EHI export, which is extended until December 31, 2023) • New standardized API functionality (§ 170.315(g)(10)) 	<ul style="list-style-type: none"> • Submission of initial attestations (§ 170.406) • Submission of initial plans and results of real world testing (§ 170.405(b)(1) and (2))
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