

## 2014 Flexibility Rule Impacts EHR Technology Requirements

On August 29th, the Centers for Medicaid and Medicare Services (CMS) and the Office of the National Coordinator for Health IT (ONC) announced the [2014 Flexibility Rule](#) granting Eligible Professionals, Eligible Hospitals, and Critical Access Hospitals additional flexibility in how they use certified EHRs to meet Meaningful Use requirements in 2014.

While MEDITECH is not able to advise customers on how to utilize this ruling, we have provided a detailed analysis below to aid your organization in making an informed decision. If your organization plans to take advantage of the CEHRT options, **it is important that you read the 2014 Flexibility Rule in its entirety, discuss any attestation decisions with your legal department, and document decisions made for auditing purposes.** Please note MEDITECH's inpatient and ambulatory products have achieved [2014 Edition Certification](#) to meet EHR Incentive Program requirements. To date, both Eligible Hospitals and Eligible Professionals have achieved successful Stage 1 and Stage 2 attestations using the MEDITECH 2014 Edition certified software release.

CMS has defined the following options for Eligible Providers and Eligible Hospitals who feel they are unable to fully implement 2014 Edition CEHRT for an EHR reporting due to delays in the availability of 2014 Edition CEHRT. The criteria for reporting using these options requires that providers attest to the objectives and measures supported by their CEHRT based on the 2011 Edition, 2014 Edition, or a combination of 2011 and 2014 edition software. As seen in the chart below, the edition of CEHRT determines the flexibility of using Stage 1 2013 criteria, Stage 1 2014 criteria or the Stage 2 2014 criteria, as well as the CQMs specified for each edition/Stage. There are no options to attest to a mixed set of objectives or to split the CQM reporting from the option selected.

Proposed CEHRT Systems Available for Use in 2014			
If you were scheduled to demonstrate:	You would be able to attest for Meaningful Use:		
	Using 2011 Edition CEHRT to do:	Using 2011 & 2014 Edition CEHRT to do:	Using 2014 Edition CEHRT to do:**
<b>Stage 1 in 2014</b>	2013 Stage 1 objectives and measures*	2013 Stage 1 objectives & measures* OR 2014 Stage 1 objectives & measures*	2014 Stage 1 objectives & measures*
<b>Stage 2 in 2014</b>	2013 Stage 1 objectives and measures*	2013 Stage 1 objectives & measures* OR 2014 Stage 1 objectives & measures* OR Stage 2 objectives & measures*	2014 Stage 1 objectives & measures* OR Stage 2 objectives & measures*

\* Only providers that could not fully implement 2014 Edition CERHT for the reporting period in 2014 due to delays in 2014 CEHRT availability.

\*\* If you are exclusively using MEDITECH products for your Meaningful Use attestation, it is our conservative interpretation that you only qualify for the 2014 flexibility options illustrated in this column.

The ruling provides guidance for attesting hospitals and providers who are uncertain if they would be able to utilize the flexibility provided in the 2014 Flexibility Rule. Specifically, CMS defines that a provider is only eligible to utilize these options for CEHRT if unable to fully implement the 2014 Edition CEHRT for an EHR reporting period in 2014 due to issues related to 2014 Edition CEHRT availability delays. The ruling also cites several examples of when a provider would or would not be able to take advantage of these flexibility options. In the table below, we have provided specific examples taken directly from the 2014 Flexibility Rule (pages 52920-52922). We encourage you to reference the full text for a more detailed explanation of each of these examples.

Final Rule Clarification for Flexibility Use	
Examples provided for which the flexibility options <b>MAY</b> be used in 2014.	Examples provided for which flexibility options <b>MAY NOT</b> be used in 2014.
Delay in CEHRT becoming available due to certifications delays.	Lack of staff or resources to implement the software. This includes, staff changes and turn over rendering the providers unable to train new staff in time to implement 2014 Edition CEHRT.
Delay in CEHRT becoming available due to release of the product. If the delay of availability of CEHRT resulted in an inability to train staff, test the updated system, or put new workflows in place because of delays associated with the installation of 2014 Edition CEHRT, this constitutes a failure to fully implement.	If the organization had 2014 Edition CEHRT installed in enough time but decided to wait until it was too late to begin training testing and workflow activities for example this is not sufficient to establish that the provider could not fully implement 2014 CERT due to a delay in the 2014 Edition CEHRT availability.
Delay in CEHRT becoming available due to software developments. Which may include, waiting for vendor software updates, or the software itself is presenting problems with functionality, or when the software does not yet contain all required components. Safety issues, or cases where the vendor identified a functionality problem and sends out patches to fix the problem, requiring the provider to wait until the issue is resolved to use the software.	Waiting too long to purchase the required software. This could include, financial issues such as the cost associated with implementing, upgrading, installing, testing or other similar financial issues. Situations stemming from a provider's inaction or delay in implementing 2014 Edition CEHRT. Also, including waiting too long to engage a vendor or a providers inability or refusal to purchase the requisite software updates.
A limited exception is provided for providers who cannot meet the threshold for Stage 2 Summary of Care measure which requires 10% transitions or referrals be sent electronically. If the intermediary or the recipients of the transition of care is experiencing delays in availability to fully implement 2014 CEHRT, referring providers may experience significant difficulty meeting the threshold, despite the referring provider's ability to send the electronic document. A referring provider under this circumstance may attest to the 2014 Stage 1 objectives and measures for the EHR reporting period in 2014. However, providers must retain documentation clearly demonstrating inability to meet the measure.	The flexibility is not intended in order for providers to be exempted from meeting Stage 2 measure requirements. Inability to meet certain measure thresholds or failure to conduct the activities required to meet a measure will not be considered a suitable basis to use the CEHRT option.

\* Only providers that could not fully implement 2014 Edition CEHRT for the reporting period in 2014 due to delays in 2014 CEHRT availability.

The choice to utilize the options finalized in this ruling are at the discretion of the attesting provider/organization. The ruling states, "The options outlined in the 2014 Flexibility Rule may be used only by providers who are unable to fully implement 2014 Edition CEHRT for an EHR reporting due to delays in the availability of 2014 Edition CEHRT." CMS specifies throughout the ruling that "providers utilizing the options proposed would be required to attest that they were unable to fully implement 2014 Edition CEHRT for a full EHR reporting period in 2014 due to delays in 2014 Edition CEHRT availability."

The ruling clarified that "providers who have fully implemented 2014 Edition CEHRT must attest to the objectives and measures for their stage of meaningful use for an EHR reporting period in 2014." In addition, the use of 2014 CEHRT must be utilized during the entire 2015 reporting period as previously defined in the Stage 2 Final Rule and was reiterated in the 2014 Flexibility Rule. MEDITECH believes that attesting for Meaningful Use using the 2014 criteria positions your organization for success during the upcoming full year of reporting in 2015 and that it is CMS' intent that you pursue attestation to the 2014 criteria unless you explicitly meet one of the flexibility criteria outline above.

Stay connected to the [Regulatory page](#) for the latest Meaningful Use updates. If you have any questions or concerns, please contact your HCIS/ACS Coordinator or [send an e-mail](#) to the ARRA group at MEDITECH.

For further information please utilize the CMS contacts listed in the 2014 Flexibility Rule:

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