

On Eve of November 2 Deadline, ONC Extends Compliance Dates for Implementation of Cures Act Final Rule Requirements

Client Alert

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On October 29, 2020, the U.S. Department of Health and Human Services' (HHS) Office of the National Coordinator for Health IT (ONC) released an interim final rule with comment period that extends the compliance dates and timeframes necessary to meet certain requirements related to information blocking and Conditions and Maintenance of Certification (CoC/MoC) requirements.

In 2016, Congress passed the 21st Century Cures Act to drive the electronic access, exchange, and use of health information. On March 9, 2020, ONC released its Final Rule, which established exceptions to the 21st Century Cures Act's information blocking provision and adopted new health information technology (health IT) certification requirements to enhance patients' smartphone access to their health information at no cost through the use of application programming interfaces (APIs).

In response to the needs of the industry to focus their attention on the COVID-19 pandemic, ONC decided to delay its implementation deadlines for providers, including the November 2, 2020 deadline providers have been currently working to meet. As stated by Don Rucker, MD, National Coordinator for Health IT, "[w]e are hearing that while there is strong support for advancing patient access and clinician coordination through the provisions in the final rule, stakeholders also must manage the needs being experienced during the current pandemic. To be clear, ONC is *not* removing the requirements advancing patient access to their health information that are outlined in the Cures Act Final Rule. Rather, we are providing additional time to allow everyone in the health care ecosystem to focus on COVID-19 response."

As a result, the healthcare industry has been provided additional time for compliance. ONC has provided the following chart of new deadlines and corresponding provisions:

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