

INFORMATION BLOCKING

WHAT IS IT?

Information blocking is generally defined as a practice that is likely to interfere with access, exchange, or use of electronic health information (EHI). The current rules limit EHI to the data elements represented in the United States Core Data for Interoperability (USCDI). Prohibitions and exceptions in the 21st Century Cures Act related to information blocking went into effect on April 5, 2021.

WHO DOES IT AFFECT?

- Health care providers
- Health information networks
- Health information exchanges
- Health information technology developer of certified information technology

If conducted by a health information technology developer, network, or exchange, know that such practice is likely to interfere with, prevent, or materially discourage access, exchange or use of electronic health information.

If conducted by a health care provider, know that such practice is unreasonable and is likely to interfere with, prevent, or materially discourage access, exchange or use of electronic health information.

WHAT ARE THE EXCEPTIONS?

- Preventing harm
- Privacy
- Security
- Infeasibility
- Health IT performance
- Content and manner
- Fees
- Licensing

A practice that does not meet the conditions of an exception would not automatically constitute information blocking. Such practices would not have guaranteed protection from civil monetary penalties or appropriate disincentives and would be evaluated on a case-by-case basis to determine whether information blocking has occurred.

WHAT ARE THE CONSEQUENCES?

- Possible investigation by the OIG
- Civil money penalties up to \$1 million per violation
- Appropriate disincentives to be established by the Health and Human Services Secretary

WHAT ARE NEXT STEPS?

- Update release of information and/or compliance policies to be consistent with the Final Rule
- Update software as needed to meet the Final Rule requirements
- Assess processes for providing patients' EHI and whether contracts with health care providers, vendors and other developers comply with the content and manner, fees, and licensing exceptions of the Final Rule

FOR MORE INFORMATION, PLEASE CONTACT:



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