

19 PHE continues to monopolize their time and attention, and has strained resources, drastically limiting their ability to prepare for the November 2nd information blocking date.

In an effort to minimize any burden or confusion for developers and providers, we have aligned the extensions around three distinct dates. For ease of comparison, in Table 1 below, we have added the dates from the ONC Cures Act Final Rule, the dates in the April 21, 2020 enforcement discretion announcement, and the dates in this IFC.

Table 1. Applicability and Compliance Dates.

| Provision | Final Rule | Enforcement Discretion Announcement | Interim Final Rule with Comment Period |
|---|-------------------------------|--|---|
| Information Blocking Overall Applicability Date – (45 CFR part 171) ³ | November 2, 2020 | N/A – No Change | April 5, 2021 |
| Condition of Certification (CoC) – Information Blocking – (§ 170.401) | November 2, 2020 | 3 months after the compliance timeframe | |
| CoC – Assurances – (§ 170.402(a)(1)) – Will not take any action that constitutes information blocking or actions that inhibit access, exchange, and use of electronic health information (EHI) | November 2, 2020 | 3 months after the compliance timeframe | |
| CoC – Assurances – (§ 170.402(a)(2) and (3), and (b)(1)) – Other | Effective date: June 30, 2020 | Enforcement discretion expired 3 months after the effective date of the final rule | |

³ Note that for the Content and Manner Exception, in § 171.301(a), for the period before October 6, 2022, the definition of EHI is limited to, at a minimum, the data elements represented in the USCDI standard; and, for the period on and after Oct 6, 2022, EHI is defined as it is in § 171.102. These dates reflect the extension from May 2, 2022, which was the compliance date included in the ONC Cures Act Final Rule. These dates are discussed in more detail in section II.A.1.

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| CoC – Communications – (§ 170.403) – Communications requirements, except for § 170.403(b)(1) where we removed the notice requirement for 2020 | Effective date: June 30, 2020 | Enforcement discretion expired 3 months after the effective date of the final rule | |
| CoC – API – (§ 170.404(b)(4)) – Compliance for current API criteria | November 2, 2020 | 3 months after the compliance timeframe | |
| CoC – API – (§ 170.404(b)(3)) – Rollout of new standardized API functionality | May 2, 2022 | 3 months after the compliance timeframe | December 31, 2022 |
| CoC – Real World Testing – 2015 Edition health IT certification criteria with standards updates | May 2, 2022 | 3 months after the compliance timeframe | |
| CoC – Assurances – (§ 170.402(a)(4) and (b)(2)) – EHI Export Rollout | May 1, 2023 | 3 months after the compliance timeframe | December 31, 2023 |
| CoC – Communications – (§ 170.403(b)(1)) – Notice to all customers with which developer has contracts or agreements containing provisions that contravene Communications CoC | Annually beginning in calendar year 2020 | Notice can be made until March 31, 2021, for the 2020 calendar year | Begin annual cycle 1 year later CY 2021 |
| CoC – Initial Attestations – (§ 170.406) | April 1-30, 2021 attestation window for attestation period running June 30, 2020, through March 31, 2021 | Generally remains the same except for the initial attestation, which will now be accepted through July 30, 2021 | Begin annual cycle 1 year later CY 2022 |
| CoC – Real World Testing – (§ 170.405(b)(1) and (2)) Submit <i>initial</i> plan and <i>initial</i> results submission | Plan: December 15, 2020 Results: March 15, 2022 | Initial Plan: Initial RWT plans (i.e., 2021 RWT plans) may be submitted through March 15, 2021 Initial Results: Initial RWT results from the 2021 performance year may be | Begin annual cycle 1 year later Initial Plan: December 15, 2021 Initial Results: March 15, 2023 |

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| | | submitted up through June 2022 | |
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In selecting these dates, we carefully considered a number of factors, including the possibility that health IT developers of certified health IT and other actors would divert resources needed to respond to the COVID-19 PHE in order to meet requirements of the ONC Cures Act Final Rule. In particular, we considered whether the requirements placed a current conflicting resource burden on developers and whether the ongoing PHE necessitates greater lead time prior to compliance. We considered whether affected parties' workforces would need more time for education and training due to the round-the-clock need to respond to the PHE. Further, we note that effective October 23, 2020, Secretary Azar renewed the determination that a PHE exists, demonstrating a Department-wide commitment to a unified effort against the COVID-19 PHE. Given these considerations, we concluded that the extensions and flexibilities finalized in this IFC are appropriate and necessary.

Once we concluded that the extensions were appropriate, we balanced those factors against the overall policy and purpose of the ONC Cures Act Final Rule. ONC takes seriously the responsibility to implement key provisions of the Cures Act and Executive Order 13813. In this IFC, we strived to ensure that our attention to the demands of the PHE is balanced with our commitment to advance interoperability and support the access, exchange, and use of EHI through implementation and enforcement of the information blocking provisions. Therefore, we

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