

# 495.5 Requirements for EPs seeking to reverse a hospital-based determination under § 495.4.

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(a) Exception for certain EPs. Beginning with payment year 2013, an EP who meets the definition of hospital-based EP specified in § 495.4 but who can demonstrate to CMS that the EP funds the acquisition, implementation, and maintenance of Certified EHR Technology, including supporting hardware and interfaces needed for meaningful use without reimbursement from an eligible hospital or CAH, and uses such Certified EHR Technology in the inpatient or emergency department of a hospital (instead of the hospital's Certified EHR Technology), may be determined by CMS to be a nonhospital-based EP.

(b) Process for determining a nonhospital-based EP. When an EP registers for a given payment year they should receive a determination of whether they have been determined "hospital-based."

(1) An EP determined "hospital-based," but who wishes to be determined nonhospital-based as specified in paragraph (a) of section, may use an administrative process to provide documentation and seek a nonhospital-based determination. Such administrative process will be available throughout the incentive payment year and including the 2 months following the incentive payment year in which the EP may attest to being a meaningful EHR user.

(2) If an EP is determined nonhospital-based under paragraph (a) of this section, to be considered nonhospital-based for subsequent payment years, the EP must attest in such payment year (or by the time the EP must attest it is a meaningful EHR user for such year) that the EP continues to meet the criteria of paragraph (a) of this section.

(c) Requirements for nonhospital-based EPs. An EP determined nonhospital-based must -

(1) Continue to meet all applicable requirements to receive an incentive payment, including meeting all requirements for meaningful use; and

(2) Demonstrate meaningful use using all encounters at all locations equipped with Certified EHR Technology, including those in the inpatient and emergency departments of the hospital.