

## EMR Adoption Program EMR Enhanced Use Program Terms & Conditions

**1. Program Purpose.** The EMR Enhanced Use Program (“**EEU**”) is intended to encourage groups who participated

- a. in the Primary Care IT (“**PCIT**”) Program and the New EMR Adopter Program;
- b. in the EMR Product Upgrade (“**EU**”); and
- c. in the New EMR Adopter Program Extension2 (“**NAE**”)

to upgrade their Electronic Medical Records Offering (“**EMR Offering**”) to their vendors’ most recent version that is certified to Ontario’s latest EMR Specification and to use specified functionality in the EMR. This program, funded by eHealth Ontario, is administered by OntarioMD Inc.

**2. What Groups Can Participate in the EMR Enhanced Use Program (EEU)?**

- a. Primary care groups or Sole Practitioners (including Specialists) whose New EMR Adopter Program, Primary Care IT (PCIT), or EMR Product Upgrade Program Monthly Subsidy payments have been completed.
- b. Groups/physicians who have achieved their NA Program Extension 2 (NAE) Go-Live Declaration milestone.

The groups and sole practitioners mentioned in 2. above are referred to as “**Groups**” in these Terms & Conditions.

**3. Who Can be a Participating Physician in a Group?** A physician who satisfies all the following criteria (“**Participating Physician**”) can be included in a Group:

- a. Practices medicine with or on the premises of the Group;
- b. Holds a valid certificate of registration issued by the College of Physicians and Surgeons of Ontario (CPSO);
- c. Manages and maintains medical records for his or her patients on a funding-eligible EMR Offering funded by OntarioMD;
- d. Is a practice-based physician (i.e., not based only in a hospital or other institution with its own medical records system), being either a family practitioner or a specialist;
- e. Is responsible for the maintenance of medical records for his or her patients, and the records are not maintained on an information technology system provided by an institution such as a hospital, long-term care facility or Community Health Centre; and
- f. Has received payments from the MOHLTC (e.g., OHIP billings, Alternate Payment Plan payments including income stabilization payments) of more than \$30,000 over the last 12 months.

**4. Eligibility Determination.** EMR Enhanced Use Program Agreements will be processed by OntarioMD in accordance with these EMR Enhanced Use Program Terms & Conditions. All decisions regarding the eligibility of a Group’s Participating Physicians will be determined solely by OntarioMD.

**5. Program Funding and Duration.** Subject to the **LIMITATION** in 6 below, it is intended that this Program to pay a subsidy of \$400 per month per Funding Eligible EMR Offering, and \$75 per month for a second circuit for an ASP solution, per Participating Physician for EEU Funding Agreements **EFFECTIVE WITHIN THE EEU PROGRAM DEADLINES** set out in s.7a below, from the latest of the following three dates,

- a. April 1, 2014 for existing EMR Upgrade Program (EU) Agreements
- b. The date upon which the PCIT Monthly Subsidy or New EMR Adopter Program (NA) for the

funded physician position ended.

- c. The date upon which the Go-Live Declaration Milestone is achieved for New EMR Adopter Program Extension/2.0 (NAE) participants

eHealth Ontario currently intends this Program to pay this subsidy until March 31, 2015.

## 6. Limitations and Indemnity.

- a. eHealth Ontario receives EMR Enhanced Use Program (EEU) funds annually, for the period from April 1 to March 31 for each fiscal year. While OntarioMD has no reason to believe that eHealth Ontario would be unable to provide EMR Enhanced Use Program funding to March 31, 2015, payments to physicians depend upon OntarioMD receiving sufficient funds from eHealth Ontario. If in any fiscal year, eHealth Ontario does not continue paying EMR Enhanced Use Program Funding, OntarioMD will advise physicians that EMR Enhanced Use Program Funding is discontinued and distribute all remaining EMR Product Upgrade funds it has in its possession to the Participating Physicians. Accordingly, physicians who choose to participate in this Program, and enter into contracts with EMR vendors to upgrade their EMRs, may wish to consider entering into annual contracts in order to align with anticipated annual funding from eHealth Ontario.
- b. Limitation of Liability. Any harm or loss suffered by a Group or OntarioMD as result of any material breach by the other of them shall be compensated by way of a claim for direct damages actually proven only and in no event shall either of them be liable to the other for incidental, indirect, exemplary, punitive, or consequential loss or damage (even if the party causing such loss or damage has been advised or had knowledge of the possibility of same or could have reasonably foreseen same), as well as other kinds of damages such as lost business revenue, loss of profits, failure to realize expected profits or savings, or loss of data. The aggregate liability of a liable party for damages related hereto for any cause or causes whatsoever is limited to the aggregate amounts actually paid by OntarioMD to Group in respect of the funding of the EMR pursuant to these Terms & Conditions.
- c. Vendor Software. ONTARIOMD MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE FUNCTIONALITY, MERCHANTABILITY QUALITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY EMR CHOSEN BY GROUP OR PARTICIPATING PHYSICIANS.
- d. Indemnification by Group. Group and each of its Participating Physicians shall indemnify, defend and hold harmless OntarioMD from claims and liabilities of third parties and losses, damages, causes of action or injuries arising from such third party claims, costs and expenses where the claim of such third party has resulted from any gross negligence or wilful misconduct on the part of Group or any of its Participating Physicians in using the Group EMR or from its or their failure to comply with all applicable governmental laws, rules, ordinances and regulations, including canons of ethics and by-laws of the College of Physicians and Surgeons of Ontario.

## 7. Special Funding Conditions. In order for a Group to receive EEU Program funding each Participating Physician must:

- a. If the Group's **EMR VENDOR RELEASES** a version of its EMR Offering that is Funding Eligible for Ontario's latest EMR Specification, UPGRADE to the latest Funding Eligible version of that EMR Offering **within eight (8) months**, or within the time limit required for the EMR Specification (if different), of the latest EMR Specification's General Availability Date; or
- b. If the Group's **EMR VENDOR DOES NOT RELEASE** a version of its EMR Offering that is Funding Eligible for Ontario's latest EMR Specification, COMMIT TO MIGRATE to a different Funding Eligible EMR Offering **within twelve (12) months after the latest EMR Specification's General Availability Date**;

- c. For the duration of their Funding Period, USE THE SAME VERSION of a Funding Eligible EMR Offering as the other Participating Physicians in that Group;
- d. For the duration of his or her Funding Period, USE THE FUNDING ELIGIBLE EMR OFFERING, where possible, to:
  - i. electronically create, manage and share patient information for his or her patients:
    - electronically receive patient reports directly into the EMR from hospitals that are connected to a regional or provincial hospital reporting solution where a solution is available for the EMR Offering
    - enter encounter notes for patients seen
    - enter problem lists for patients seen
    - store patient care related documents not originated from an EMR, which contain information not already within the EMR;
  - ii. schedule all patient appointments;
  - iii. make new prescriptions / renewals and use EMR-generated alerts to help avoid drug-to-drug interactions;
  - iv. generate automated alerts / reminders to support care delivery, including preventive care management;
  - v. receive lab results electronically, directly into the EMR from either:
    - the private labs supported by the EMR Specification, that are used by the physician, or
    - the Ontario Laboratories Information System (OLIS); and,
  - vi. be able to search OLIS directly from the EMR for lab results pertaining to patients.
- e. Attest to using the Funding Eligible EMR as per condition 7 d. above, by completing the EMR Progress Reporting (EPR) Survey prior to starting the EMR Enhanced Use Program, and thereafter annually no later than the anniversary date of their most recent EMR Progress Reporting (EPR) Survey;<sup>1</sup>
- f. Configure and equip his or her practice so that:
  - he or she and other authorized health care providers on the “team” (if applicable) have ready access to the EMR application at all points of care within the practice;
  - support staff have ready access to the EMR application to support billing, scheduling and clinical workflow activities; and
  - he or she, and relevant support staff, have ready access to a printer to support care delivery activities (e.g., patient education, prescription printing) and administrative activities.

**In addition, the Group must:**

- a. ensure that the software and hardware for the Group’s EMR (e.g., computers, servers, printers etc.) meet or exceed its EMR vendor’s recommended requirements; and
- b. install and maintain an uninterruptible power supply (UPS) to protect the EMR application against intermittent power fluctuations and permit the safe power-down of network and computer equipment.

OntarioMD and eHealth Ontario have the right to confirm each Participating Physician’s use of the EMR Offering and compliance with these Terms & Conditions by on-site audit of the Group’s use of the EMR Offering or such other means as OntarioMD or eHealth Ontario may decide.

Participating Physicians/Groups who are not upgraded timely will have their subsidies suspended and payments will only be reinstated upon receipt of an EMR Upgrade Notice of Change.

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<sup>1</sup> **Note:** Failure to complete annual survey will result in suspension of EMR subsidies. Funding will only be reinstated upon OntarioMD’s determination that the EPR Survey has been fully completed.

If a newer version of the EMR Offering used by the Group is released during the Funding Period, the Group's Participating Physicians must upgrade to the latest version of the EMR Offering within eight (8) months of the latest EMR Specification General Availability Date, otherwise funding will be suspended.

If a Fix Release is issued for the Group's EMR Offering during the Funding Period to eliminate a deficiency, the Group's Participating Physicians must upgrade to the Fix Release of the EMR Offering within four (4) months, or such other period as may be specified by OntarioMD, of the Fix Release's General Availability Date.

**8. Process.** The funding process steps set out in these Terms & Conditions are summarized below:

- a. **EMR Enhanced Use Program Agreement:** An EMR Enhanced Use Program Agreement is prepared by OntarioMD, reviewed by the Group and then signed by both. An EMR Enhanced Use Program Agreement consists of the covering and signature pages, these Terms & Conditions and any Notices of Change and EFT Forms delivered by the Group during the term of the agreement. Each Group will only have one EMR Enhanced Use Program (EEU) Agreement.
- b. **Funding Agreement Deadline:** The **EMR Enhanced Use Program Agreement** must be signed by the Group and received by OntarioMD before December 31, 2014.
- c. **Funding:** Following receipt of the signed EMR Enhanced Use Program Agreement, OntarioMD will advise the Group when funding payments will start.
- d. **EMR Upgrade Notice of Change:** The Group completes and submits an EMR Upgrade Notice of Change form to advise OntarioMD when its Participating Physicians have upgraded to the latest version of a Funding Eligible EMR.
- e. **Notice of Change:** The Group completes and submits a Notice of Change form to advise OntarioMD if any changes to any of the following occur:
  - i) The number of Participating Physicians (departures, replacements and additions)
  - ii) The identity of the group Lead Physician
  - iii) practice location
  - iv) contact information
  - v) status of a practice (e.g., the Practice closes)
- f. **Notice of Start of Funding:** Where a Notice of Change fills open funded physician positions, OntarioMD will indicate when funding will start for those positions.
- g. **Departure of Participating Physician:** The Group must notify OntarioMD of any funded Participating Physician's departure no less than six (6) weeks prior to his or her departure. If the Group indicates that it will be replacing the departing Participating Physician, the monthly upgrade subsidy will continue to be paid to the Group for the unoccupied funded physician position for six (6) months after the "departure date". Thereafter, payment of the monthly subsidy for that funded physician position will only resume when OntarioMD is notified of a replacement physician and the effective "Start Date". OntarioMD will then advise the Group of payment amounts and timing. If the Group is **not** seeking a replacement for the departing physician, the monthly upgrade subsidy will cease immediately.

**Note:** OntarioMD has the right to suspend payments if a Participating Physician is no longer listed as a signatory to a MOHLTC-funded primary care physician group (PCPG), e.g., FHN, FHO, FHG, FFS etc.,

**9. Electronic Funds Transfer (EFT) Form.** This form is used to set up the account to which the funding payments will be made. It is used by the Group to **set up and change** payment instructions for all payments to be made to the Group. This includes banking information and whether the Group wants notification of remittance advice. A voided cheque must be attached to the Form and the pre-printed name on the cheque must match that of the Group. All payments will be made to the Group's bank account designated in the Form.

**10. Compliance With Program Requirements.** Failure of a Group or its Participating Physicians to comply with any or all of these Terms & Conditions may result in OntarioMD, in its sole discretion, suspending funding payments for one or more Participating Physicians, requesting reimbursement of funding already paid out and/or terminating the EMR Enhanced Use Program Agreement, in whole or in part, which may terminate payments to some or all of the Participating Physicians.

**11. Privacy Consent.** All Participating Physicians, the Group, the Group's Lead Physician and the IT Lead and any other "team" involved in the EMR Enhanced Use Program understand and consent that the information collected during delivery of the program will be collected, used, retained and disclosed to administer the EMR Enhanced Use Program and not for any other purposes. Only persons and organizations authorized by OntarioMD and eHealth Ontario for purposes of funding programs shall have access to and use of this information.

**All program funding forms and these Terms & Conditions can be found at <https://www.ontariomd.ca/ir/emrenhanceduse> and the EMR User Survey can be found at <https://www.ontariomd.ca/ir/epr>**