



Requirements for receiving Medicare and Medicaid EHR incentive payments

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Congress creates a \$19 billion subsidy program

Early in 2009, Congress passed the American Recovery and Reinvestment Act (ARRA) which created a \$19 billion subsidy program to help physicians and hospitals purchase electronic health records (EHR) systems. For many physicians, the cost of an EHR has simply been out of reach. The new program, therefore, provides an opportunity to enter the digital era. As with any government subsidy program, however, there are strings attached.

CMS and the ONC develop criteria

While the law broadly laid out the parameters under which physicians could receive these incentive payments, the specific rules that will govern the program are developed by the administration.

The Centers for Medicare and Medicaid Services (CMS), together with the Office of the National Coordinator for Health Information Technology (ONC), are the two agencies under the U.S. Department of Health and Human Services (HHS) responsible for developing the criteria physicians will need to meet to receive an incentive. CMS is overseeing the rules for the incentive program and the ONC is overseeing the rules EHR vendors must meet to be considered a certified product for the program.

In order for physicians to receive the Medicare incentive payments under ARRA, they must be a “meaningful user” of a “certified” EHR. Throughout the development of the regulations, the AMA worked extensively with both specialty and state medical societies to secure policies that would best help physicians become a “meaningful user” of a “certified” EHR and facilitate adoption of health information technology (IT).

The AMA is involved

Take a look at the [guiding principles](#) developed by the AMA, in conjunction with and signed by 95 state and specialty medical societies, that outline how we collectively believe the incentive program should be structured, as well as several [detailed comment letters](#) to the administration prior to publication of the final rule.

HHS publishes final rule

On July 13, HHS published final rules outlining the requirements for what physicians must do in order to be a “meaningful user” of a “certified” EHR.

What kind of money are we talking about?

There are two incentive programs, one for Medicare and one for Medicaid. Congress created different subsidies and parameters for each program. For Medicare, physicians are eligible for up to \$44,000 over five years starting in 2011 and incentives are predicated on 75 percent of the physician’s Medicare allowed Part B charges.

For Medicaid, the incentives are based upon a physician’s patient volume. For most physicians a Medicaid patient volume of at least 30 percent is required; for pediatricians it is 20 percent. Under the Medicaid program, physicians are eligible for up to \$63,750 over six years beginning in 2011.

Were there any positive changes in the final rule?

CMS did incorporate several of the AMA’s recommendations into the final rule, including:

- **Removing administrative requirements:** CMS has removed the administrative simplification objectives and measures from Stage 1 “meaningful use” criteria.
- **Reducing number of criteria:** CMS has reduced the number of Stage 1 measures that physicians have to meet for demonstrating “meaningful use” from 25 to 20, and five of the 20 measures can be selected from a menu of options.
- **Reducing threshold volume and measures criteria:** CMS has reduced the high threshold volumes for several measures (e.g., threshold requirement to demonstrate use of Computerized Physician Order Entry has dropped from 80 percent to 30 percent and has been limited to just medication orders; threshold requirement to transmit electronic prescriptions has dropped from 75 percent to 40 percent; and the total number for implementing clinical decision support tools has been reduced from five to one).
- **Greater flexibility in meeting quality measures:** Clinical quality measures adopted for the Medicare EHR incentive program would also apply to eligible professionals in the Medicaid EHR incentive program. CMS has limited the clinical quality measures to those for which electronic specifications are available as of the date of publishing of the final rule. For 2011, eligible professionals are required to submit information via attestation on three core clinical quality measures and three additional clinical quality measures.
- **More uniformity between Medicare and Medicaid incentive programs:** CMS has adopted an approach that calls for greater uniformity and less variation between the two incentive programs. In addition, efforts are underway to align reporting timeframes across CMS programs. Specifically the Patient Protection and Affordable Care Act, also known as the Affordable Care Act, requires the secretary to integrate the EHR Incentive Program and Physician Quality Reporting Initiative by Jan. 1, 2012.

What challenges remain?

Despite CMS's attempt to simplify the incentive program requirements, the AMA anticipates that for many physicians the requirements for receiving the incentive payments are still too steep. This will be especially true for physicians in solo or small group practices who have not previously utilized an EHR.

Key barriers, include:

- **Product availability:** There is no EHR in the market today that does all of the things required for physicians to successfully meet Stage 1 “meaningful use” criteria. CMS and the ONC expect “certified” EHRs that support the achievement of Stage 1 “meaningful use” to be available this fall.
- **Timing:** Physicians will only have a couple of months to purchase, implement and assess the usability of “certified” EHR technology prior to January 2011, the start date of the incentive program.
- **Volume of measures:** The volume of measures that physicians must meet totals 20, which is still too high, especially for smaller practices that have not yet adopted or used EHR technology.
- **Hospital-based professionals:** Hospital-based physicians are not eligible for incentives if they provide 90 percent or more of their services in an inpatient or emergency room setting.
- **Timeframes for furnishing patient information electronically:** The measures that require physicians to electronically produce, within several days, health information contained in EHRs conflict with HIPAA requirements that allow for a longer period of time (at least 30 days) for the production of medical records.
- **Threshold requirements still too high:** Some of the threshold requirements are still too high and some of the measures have narrow exclusions, which will be burdensome for physicians to meet. One measure requires physicians to maintain an up-to-date problem list of current and active diagnoses or indicate that no problems are known for more than 80 percent of patients seen during the reporting period, with no exceptions. Another requirement (a menu option) is to provide a “summary of care” record for more than 50 percent of patient transitions or referrals within three business days, which will be difficult to meet.
- **No appeals process:** There is no mechanism for physicians to appeal any aspect of the incentive program (e.g., payments or eligibility).
- **Usability:** The certification process does not take into account whether a product will meet a physician's unique workflow and practice needs; rather, it will only provide the means for meeting the “meaningful use” criteria.
- **Early adopters:** Physicians who are “early adopters” of EHRs have already invested substantially in EHR technology and must now upgrade their systems to meet certification criteria in order to be eligible for incentives.

- **Testing of re-tooled measures:** CMS expects the EHR certification process to carry out the necessary testing to assure that applicable certified EHR technology can calculate sufficient clinical quality measures required to qualify. Physicians are required to report summary clinical quality information (number, denominator and exclusion) in Stage 1, but there is no guarantee that the e-specifications imbedded in EHR vendor products are accurate and operational. As a result, physicians may capture the wrong data, or worse, report via attestation in 2011, invalid clinical quality information to CMS or the states (if Medicaid).

Ready to get started or just want more details?

Now that the final rule has been published physicians will need to understand what they will need to do in order to receive an incentive payment. The AMA will work throughout this process to educate physicians.

Visit the AMA website at www.ama-assn.org/go/regrelief, and click on “Health IT/EHR Incentives” for information outlining program requirements.

Visit www.cms.gov/ehrincentiveprograms to view the final rule on the EHR incentive program requirements and certification criteria for EHRs.