

Financial Incentives for Adoption of Electronic Health Records - Medicare Fee for Service Payments for Eligible Professionals

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On January 13, 2010, the United States Department of Health and Human Services (HHS) issued proposed regulations that provide incentive payments from the Medicare Fee for Service Program (FFS) to eligible professionals (EP) for adoption and meaningful use of Certified Electronic Health Record (EHR) technology. Because these regulations are "proposed," they may change. However, since the regulations implement a statutory mandate, it is not expected that the final regulation for Medicare FFS incentive payments to EPs will be significantly different from the proposed regulations.

An EP for purposes of the Medicare FFS incentive program is defined to be: (i) a doctor of medicine or osteopathy; (ii) a doctor of dental surgery or medicine; (iii) a doctor of podiatric medicine; (iv) a doctor of optometry; or (v) a chiropractor. A hospital-based EP is not eligible for incentive payments under the Medicare FFS program. A hospital-based EP is defined to be an EP who furnishes 90 percent or more of his or her covered professional services in the calendar year preceding the payment year in a hospital setting.

Practical Point: Some hospital-based EPs may still qualify for incentive payments if they furnish less than 90 percent of their professional services in a hospital setting.

An EP can receive a total of \$44,000 in Medicare FFS incentive payments spread over 5 years with payments heavily weighted to the early years. This amount can be increased by 10 percent if more than 50 percent of an EP's professional services are furnished in a Health Professional Shortage Area. The payment is an amount equal to 75 percent of allowed charges under the physician fee schedule for covered professional services furnished by the EP during the payment year, subject to the above caps.

In order to receive the maximum incentive payment, an EP must become a meaningful user of Certified EHR technology in 2011 or 2012. The total maximum payout decreases for each first payment year after 2012. If an

EP becomes a meaningful user of certified EHR technology after 2014, no incentive payments will be made.

If an EP is not a meaningful user of Certified EHR technology, the physician fee schedule amounts payable to such an EP will be reduced by 1% in 2015, 2% in 2016 and 3% in 2017 and each subsequent year. Hospital-based EPs are not subject to these fee schedule reductions.

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