HEALTHCARE ARTICLE

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Federal Payments Available for Health Providers Who Use Electronic Health Records

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The American Recovery and Reinvestment Act of 2009 (ARRA), signed into law on February 17, 2009, includes nearly $800 billion worth of spending provisions and tax incentives for various industries. ARRA provides major opportunities for the improvement of our nation's health information technology (also known as "Health IT"). The Medicare and Medicaid Health IT provisions of ARRA provide financial incentives and support for the adoption of certified electronic health records (EHRs). The law authorizes bonus payments for hospitals and physicians participating in Medicare or Medicaid, among other eligible health care providers, if they become "meaningful users" of certified EHRs. These bonus payments will help lessen the financial burden for health care providers to adopt this technology. The incentive bonuses begin in January of 2011. Beginning in January of 2015, ARRA also mandates penalties under Medicare for eligible health care providers that fail to demonstrate meaningful use of EHRs.

Which health care providers are covered?

The Health IT provisions of ARRA apply to "eligible professionals," as defined under the Social Security Act. Under the Medicare portion of the provisions, "eligible professionals" include certain doctors (medicine, osteopathy, dental surgery, dental medicine, podiatric medicine, and optometry) and chiropractors but do not include hospital-based professionals (such as anesthesiologists or pathologists providing substantially all of their services in hospital settings). Under the Medicaid portion of the provisions, "eligible professionals" include physicians, dentists, certified nurse-midwives, nurse practitioners, and physician assistants practicing in a rural health clinic or Federally Qualified Health Center (FQHC). Each Medicaid-eligible professional must also meet one of the following minimum patient volume percentages: 1) a non-hospital-based professional with at least 30% of patient volume from Medicaid patients, 2) a non-hospital-based pediatrician with at least 20% of patient volume from Medicaid patients, or 3) a non-hospital-based professional practicing predominantly in a FQHC or rural

health clinic with at least 30% of patient volume from "needy" patients. "Needy" patients include Medicaid patients, State Children's Health Insurance Plan (SCHIP) patients, persons receiving charity care, and persons receiving care for which payment is made on a prospective sliding fee basis.

What is required of the health care providers?

Between January of 2011 and December of 2015, eligible professionals will be rewarded with financial incentives for becoming "meaningful users" of certified EHRs. By January of 2015, the eligible professionals will face Medicare penalties if they have not integrated meaningful use into their practices.

The U.S. Department of Health and Human Services (DHHS) defines an "EHR" as "a digital collection of a patient's medical history," including "diagnosed medical conditions, prescribed medications, vital signs, immunizations, lab results, and personnel [sic] characteristics like age and weight."

In July of 2009, the Health IT Policy Committee (Committee) of DHHS, mandated by ARRA to suggest a policy framework for the incentive program, proposed recommendations for what "meaningful use" should entail (see http://www.hhs.gov/healthit). The underlying goal of the Committee's recommendations is to capture coded health information and to use that information to track key clinical conditions. By December 31, 2009, DHHS is expected to adopt its regulations outlining the qualifying criteria for "meaningful use" of EHRs and the reimbursement application process.

Two organizations will provide key support to implement the incentives program: the Certification Commission for Healthcare Information Technology will certify EHRs (once the EHR certification criteria has been formulated), and the Health Information Technology Extension Program will create regional centers to assist eligible professionals as they adopt and implement health information technology.

How will the incentives and disincentives work?

1. Medicare Incentive Payments

The Centers for Medicare & Medicaid Services (CMS) has already established how the incentive payments will work under the Medicare program. The incentive payment will be 75% of Medicare allowable covered charges furnished by the eligible professional, subject to a maximum payment amount each year. A first-year participant that becomes a meaningful user by 2011 or 2012 will be eligible to receive up to $18,000. All other first-year participants will receive a maximum of $15,000. Eligible professionals can receive up to $12,000 in the second year, $8,000 in the third year, $4,000 in the fourth year, and $2,000 in the fifth year. Meaningful users will not receive incentive reimbursements after the fifth year of implementation. If an eligible professional is a meaningful user for the first time in 2015 or later, he or she will not be eligible to receive incentive payments. For eligible professionals who predominantly furnish services in a health professional shortage area, incentive payments will be increased by 10%.

2. Medicare Disincentives

Eligible professionals are expected to integrate meaningful use of EHRs into their practices by January 2015 or face penalties under Medicare. An eligible professional who is not a meaningful user by January 2015 will see his or

her Medicare reimbursement payments reduced by 1% in 2015, 2% in 2016, 3% in 2017, and somewhere between 3 and 5% for subsequent years. If less than 75% of all eligible professionals are meaningful users by January 2018, the payment reductions will increase by 1% each year but by no more than 5% overall. A provider may be excused from EHR implementation if the Secretary of DHHS determines that compliance would be a significant hardship; however, such a waiver can be secured only for a maximum of 5 years.

3. Medicaid Incentive Payments

ARRA also authorizes 100% federal reimbursement for states to provide incentive payments to Medicaid providers that integrate EHRs. Payments will begin in January 2011 and continue through 2021. Eligible professionals will have to meet minimum Medicaid patient volume percentages and waive rights to duplicative reimbursement incentives under Medicare and Medicaid. There will be no payment reductions associated with the Medicaid incentive provisions.

Conclusion

The Health IT Incentive provisions, as well as the forthcoming standards and certification criteria for "certified EHR" and "meaningful use," will promote the development of a nationwide health information infrastructure for electronic exchange and use of health information. In the coming years, the incentive program will enable health care providers to adopt technology by reducing the financial burden, and it will also present opportunities for IT providers to work with health care providers to help them achieve meaningful use of EHRs in their practices. The long-term result will be a comprehensive infrastructure comprised of a series of standards and secure computer networks, which should enable health care providers to aggregate and distribute health information – including test results, medical history, and even cutting-edge research – to provide the best treatment for individual patients. The technological advances should ultimately serve to improve the nature and quality of health care delivery and health outcomes.