

**Telehealth** includes such technologies as telephones, facsimile machines, electronic mail systems, and remote patient monitoring devices which are used to collect and transmit patient data for monitoring and interpretation. While they do not meet the Medicaid definition of telemedicine they are often considered under the broad umbrella of telehealth services. Even though such technologies are not considered "telemedicine," they may nevertheless be covered and reimbursed as part of a Medicaid coverable service under section 1905(a) of the Social Security Act such as laboratory service, x-ray service or physician services.

### **TELEMEDICINE: Licensing, Credentialing & Privileging**

Medicaid guidelines require all providers to practice within the scope of their state practice act. Some States have enacted legislation which requires providers using telemedicine technology across state lines to have a valid state license in the state where the patient is located. Any such requirements or restrictions placed by the State are binding under current Medicaid rules. Medicare Conditions of Participation (COPs) applicable to settings such as long-term care facilities, and hospitals may also impact reimbursement for services provided via telemedicine technology. For instance, the Medicare COPs for long-term care facilities require physician visits at set intervals. Current regulations require that the physician must be physically present in the same room as the patient during the visit. This requirement must also be met for Medicaid to pay for services provided to Medicaid eligible patients while in a Medicare or Medicaid certified facility. Similarly, federal regulations require face-to-face visits for home health, and telemedicine cannot be used as a substitute for those visits. However, a telemedicine encounter may be used as a supplement to the required face-to-face visits.

### **HITECH Act**

The nation's healthcare system is undergoing a transformation in an effort to improve quality, safety and efficiency of care, from the upgrade to ICD-10 to information exchanges of EHR technology. To help facilitate this vision, the Health Information Technology for Economic and Clinical Health Act, or the "HITECH Act" established programs under Medicare and Medicaid to provide incentive payments for the "meaningful use" of certified EHR technology. The Medicare and Medicaid EHR incentive programs will provide incentive payments to eligible professionals and eligible hospitals as they adopt, implement, upgrade or demonstrate meaningful use of certified EHR technology. The programs begin in 2011. These incentive programs are designed to support providers in this period of Health IT transition and instill the use of EHRs in meaningful ways to help our nation to improve the quality, safety and efficiency of patient health care.

NOTE: This is a new program, and it is separate from other active CMS incentive programs, such as Physicians Quality Reporting Initiative (PQRI), Reporting Hospital Quality Data for Annual Payment Update (RHQDAPU) and e-Prescribing.

#### *CMS' Role in Other HITECH Areas*

CMS also worked with the Office of the National Coordinator for Health Information Technology (ONC) in developing standards, implementation specifications, and certification criteria for EHR technology. More information on certification can be found in the tab on the left.

Patient privacy and security is an important consideration in implementing the EHR incentive programs. CMS is also working with the Office for Civil Rights (OCR) and ONC to address the privacy and security protections under HITECH Act. More information on privacy and security related to the Health IT is available by clicking "Health IT/Privacy and Security" and "HHS Office for Civil Rights" in the Related Links Outside CMS section below.

The Medicare EHR incentive program for Eligible professionals (EPs) starts in 2011 and continues through 2016. Eligible professionals can participate for 5 years throughout the duration of the program. The last year to begin participation is 2014.

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The incentives are based on individual providers. Therefore, if you are part of a practice, each eligible professional may qualify for an incentive payment provided they successfully demonstrate meaningful use. Each EP is only eligible for one incentive payment each year, regardless of how many practices or locations they provide services.

### **EHR INCENTIVE PROGRAM**

CMS is establishing the EHR Incentive program through formal rule making. A proposed rule on the EHR incentive programs (and the definition of meaningful use) was published, and CMS accepted public comments for 60 days, which ended on March 15, 2010. More than 2,000 comments were received. CMS published the final rule on July 28, 2010. This rule provides many of the parameters and requirements for the Medicare & Medicaid EHR Incentive Programs.

#### *Eligibility for Medicare EHR Incentive Program – Eligible Professionals (EPs)*

Under the Medicare EHR Incentive Program, EPs must be one of the following:

- Doctors of Medicine or Osteopathy
- Doctors of Dental Surgery or Dental Medicine
- Doctors of Podiatric Medicine
- Doctors of Optometry
- Chiropractors

NOTE: Medicare EPs may not be hospital-based. A Medicare EP is considered hospital-based if 90% or more of the EP's services are performed in a hospital inpatient or emergency room setting.

Physicians who are also eligible as a Medicaid EP must choose between the Medicare and Medicaid incentive programs when they register. Not sure which program to register? Find more information in the Eligibility tab on the left.

#### *Participating in the EHR Incentive Program and Other Current CMS Incentive Programs*

This is a new program, and it is separate from other active CMS incentive programs, such as Physicians Quality Reporting Initiative (PQRI) and e-Prescribing. If you participate as a Medicare eligible professional, you cannot receive incentive payments from both the Medicare EHR incentive program and the e-Prescribing program in the same year. If you participate as a Medicaid EP, you may participate in both the Medicaid EHR incentive program and the e-Prescribing program at the same time, as long as you meet the eligibility requirements for both programs.

If you want to participate in the Medicare EHR incentive program AND are currently participating in the e-Prescribing incentive program, you need to decide which incentive program you want to participate. The e-Prescribing incentive program is based on allowable submitted charges during the reporting period, while the EHR incentive program provides a determined incentive payment if the requirements of the program are met. For most, the EHR incentive program will provide the greater monetary value.

NOTE: If you register and attest for the Medicare EHR incentive program, then you will no longer be able to participate in the e-Prescribing program.

Physicians can participate in the Physicians Quality Reporting Initiative (PQRI) at the same time as the Medicare and Medicaid EHR incentive programs, as long as they meet eligibility requirements for both programs.

#### *Incentive Payments*

To qualify for Medicare incentive payments, Medicare eligible professionals must successfully demonstrate meaningful use for each year of participation in the program. For calendar years 2011-2016, meaningful EHR users can receive up to \$44,000 over 5 years under the Medicare incentive program. Incentive payments are made based

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on the calendar year. To get the maximum incentive payment, Medicare eligible professionals must begin participation by 2012.

Payment Amounts	Medicare EP Qualifies to Receive First Payment in 2011	Medicare EP Qualifies to Receive First Payment in 2012	Medicare EP Qualifies to Receive First Payment in 2013	Medicare EP Qualifies to Receive First Payment in 2014	Medicare EP Qualifies to Receive First Payment in 2015
<b>Payment Amount for 2011</b>	\$18,000.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Payment Amount for 2012</b>	\$12,000.00	\$18,000.00	\$0.00	\$0.00	\$0.00
<b>Payment Amount for 2013</b>	\$8,000.00	\$12,000.00	\$15,000.00	\$0.00	\$0.00
<b>Payment Amount for 2014</b>	\$4,000.00	\$8,000.00	\$12,000.00	\$12,000.00	\$0.00
<b>Payment Amount for 2015</b>	\$2,000.00	\$4,000.00	\$8,000.00	\$8,000.00	\$0.00
<b>Payment Amount for 2016</b>	\$0.00	\$2,000.00	\$4,000.00	\$4,000.00	\$0.00
<b>Total Payment Amount</b>	<b>\$44,000.00</b>	<b>\$44,000.00</b>	<b>\$39,000.00</b>	<b>\$24,000.00</b>	<b>\$0.00</b>

**Important!** For 2015 and later, Medicare eligible professionals who do not successfully demonstrate meaningful use will have a payment reduction in their Medicare reimbursement. The payment reduction starts at 1% and increases up to 5% for every year that a Medicare eligible professional does not demonstrate meaningful use. Hospital-based physicians and Medicaid eligible professionals are not subject to possible payment reductions. However, if you are also a Medicare Fee-for Service providers and cannot successfully demonstrate meaningful use, you will have a payment reduction in your Medicare reimbursement starting in 2015, even if you never received an incentive payment or only participate in the Medicaid EHR incentive program.

**Extra incentives are available** - The amount of the annual EHR incentive payment limit for each payments year will be increased by 10% for Medicare eligible professionals who predominantly furnish services in an area that is designated as a Health Professional Shortage Area (HPSA.)

The Medicaid EHR incentive program is voluntarily offered and administered by States and territories. States can start offering their program to eligible professionals (EPs) as early as 2011. The program continues through 2021. Eligible professionals can participate for 6 years throughout the duration of the program. The last year to begin participation is 2016.

The incentives are based on the individual providers. Therefore, if you are part of a practice, each eligible professional may qualify for an incentive payment provided they meet the requirements for the program. Each EP is

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only eligible for one incentive payment each year, regardless of how many practices or locations they provide services.

### *Eligibility for Medicaid EHR Incentive Program - Eligible Professionals (EPs)*

Under the Medicaid EHR incentive program, EPs include the following:

- Physicians (Pediatricians have special eligibility and payment rules)
- Nurse Practitioners (NPs)
- Certified Nurse-Midwives (CNMs)
- Dentists
- Physician Assistants (PAs) who provide services in a Federally Qualified Health Center (FQHC) or rural health clinic (RHC) that is led by a PA

Medicaid eligible professionals must also meet patient volume criteria, providing services to those attributable to Medicaid or, in some cases, needy individuals. To see if you may be eligible, click the Eligibility tab on the left.

NOTE: Medicaid eligible professionals may not be hospital-based. A Medicaid EP is considered hospital-based if 90% or more of the EP's services are performed in a hospital inpatient or emergency room setting.

Medicaid physicians who are also eligible as a Medicare EP must choose between the Medicare and Medicaid incentive programs when they register. Not sure which program to register? Find more information in the Eligibility tab on the left.

### *Participating in the EHR Incentive Program and Other Current CMS Incentive Programs*

This is a new program, and it is separate from other active CMS incentive programs, such as Physicians Quality Reporting Initiative (PQRI) and e-Prescribing. If you participate as a Medicaid EP, you may participate in both the Medicaid EHR incentive program and the e-Prescribing program at the same time, as long as you meet the eligibility requirements for both programs. However, if you participate as a Medicare eligible professional, you cannot receive incentive payments from both the Medicare EHR incentive program and the e-Prescribing program in the same year.

Physicians can participate in the Physicians Quality Reporting Initiative (PQRI) at the same time as the Medicare and Medicaid EHR incentive programs, as long as they meet eligibility requirements for both programs.

More information is available in the Medicare Eligible Professional tab on the left.

### *Incentive Payments*

To qualify for Medicaid incentive payments, Medicaid eligible professionals must adopt, implement, upgrade or demonstrate meaningful use of certified EHR technology in the first year of participation. Medicaid EPs must demonstrate meaningful use in years 2-6 of participation. For calendar years 2011-2021, participants can receive up to \$63,750 over 6 years under the Medicaid EHR incentive program. Incentive payments are made by the State based on the calendar year.

	<b>Medicaid EP Qualifies to Receive First Payment in 2011</b>	<b>Medicaid EP Qualifies to Receive First Payment in 2012</b>	<b>Medicaid EP Qualifies to Receive First Payment in 2013</b>	<b>Medicaid EP Qualifies to Receive First Payment in 2014</b>	<b>Medicaid EP Qualifies to Receive First Payment in 2015</b>	<b>Medicaid EP Qualifies to Receive First Payment in 2016</b>
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<b>Payment Amount in 2011</b>	\$21,250.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Payment Amount in 2012</b>	\$8,500.00	\$21,250.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Payment Amount in 2013</b>	\$8,500.00	\$8,500.00	\$21,250.00	\$0.00	\$0.00	\$0.00
<b>Payment Amount in 2014</b>	\$8,500.00	\$8,500.00	\$8,500.00	\$21,250.00	\$0.00	\$0.00
<b>Payment Amount in 2015</b>	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00	\$21,250.00	\$0.00
<b>Payment Amount in 2016</b>	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00	\$21,250.00
<b>Payment Amount in 2017</b>	\$0.00	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00
<b>Payment Amount in 2018</b>	\$0.00	\$0.00	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00
<b>Payment Amount in 2019</b>	\$0.00	\$0.00	\$0.00	\$8,500.00	\$8,500.00	\$8,500.00
<b>Payment Amount in 2020</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$8,500.00	\$8,500.00
<b>Payment Amount in 2021</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$8,500.00
<b>TOTAL Incentive Payments</b>	<b>\$63,750.00</b>	<b>\$63,750.00</b>	<b>\$63,750.00</b>	<b>\$63,750.00</b>	<b>\$63,750.00</b>	<b>\$63,750.00</b>

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**Important!** All Medicare providers will have a payment reduction in 2015 if they are not demonstrating meaningful use. For example, if you are a physician and accept both Medicare and Medicaid, you must be demonstrating meaningful use by 2015 (in either the Medicare or the Medicaid EHR incentive program) or you will have a Medicare fee-schedule reduction for all your Medicare claims. The payment reduction for Medicare Fee-for-Service physicians starts at 1% and increases up to 5% for every year that you are not demonstrating meaningful use. Hospital-based physicians are not subject to possible payment reductions.

### **Timeline of Incentive Plan**

See *Addendum C* for the CMS Timeline, which provides an opportunity for inter-agency coordination.



# CMS Medicare and Medicaid EHR Incentive Programs Milestone Timeline

