

Financial Incentives for Adoption of Electronic Health Records: Medicaid Incentive Payments for Hospitals

Financial Incentives for Adoption of Electronic Health Records: Medicaid Incentive Payments for Hospitals

Insight — 2/24/2010 12:00:00 AM

On January 13, 2010, the United States Department of Health and Human Services (HHS) issued proposed regulations which authorize states, at their option, to provide for incentive payments to providers for adopting, implementing or upgrading Certified Electronic Health Record (EHR) technology or for meaningful use of Certified EHR technology. Whether these incentive payments are available will depend upon whether a state chooses to provide the incentive payments through the state's Medicaid program and any such incentives will be subject to yet-to-be-developed state regulations.

Acute care hospitals and children's hospitals are eligible for Medicaid EHR incentive payments. An acute care hospital is a health care facility where the average length of patient stay is 25 days or fewer and that has a CMS certification number that has the last four digits in the series 0001-0879. In addition, an acute care hospital must have at least a 10 percent Medicaid patient volume for each year in which the hospital seeks a Medicaid EHR incentive payment.

A children's hospital is a separate certified children's hospital, either freestanding or hospital-within-hospital, that has a CMS certification number that has the last four digits in the series 3300-3399 and predominantly treats individuals under 21 years of age.

States must make Medicaid incentive payments over a minimum of 3 years and a maximum of 6 years. The last year that a hospital may begin receiving Medicaid incentive payments is 2016.

The Medicaid incentive payment for each payment year is the product of an initial amount multiplied by the Medicaid share and an applicable transition factor. The initial amount is \$2,000,000 plus:

1. For the first through 1,149th discharge, \$0;
2. For the 1,150th through 23,000th discharge, \$200 per discharge; and
3. For any discharge greater than 23,000, \$0.

States are obligated to obtain auditable data to determine Medicaid

incentive payments.

Hospitals can receive Medicaid incentive payments in the first year if the hospital adopts, implements or upgrades Certified EHR technology in the first year. The Hospital must demonstrate meaningful use of Certified EHR technology in subsequent years. Hospitals can also participate in both the Medicaid and Medicare EHR incentive program.

For additional information or questions, contact:

William H. Fischer

303-295-8338

whfischer@hollandhart.com

Matthew G. Weber

303-295-8565

mweber@hollandhart.com

Berna Rhodes-Ford

702-222-2582

brhodesford@hollandhart.com

Robert C. Anderson

702-222-2520

BAnderson@hollandhart.com

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.