

Financial Incentives for Adoption of Electronic Health Records: Incentive Payments for Medicare Advantage Organizations - 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 for incentive payments to qualifying Medicare Advantage (MA) organizations for certain of the MA organization's affiliated eligible professionals (EP) who are meaningful users 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 incentive payments to MA organizations will be significantly different from the proposed regulations.

An EP 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.

To be eligible for an incentive payment, the EP must be a meaningful user of Certified EHR technology and must either:

- be employed by a qualifying MA organization; or
- be employed by, or be a partner (partner means owner) of, an entity that through contract with the qualifying MA organization furnishes at least 80 percent of the entity's Medicare patient services to enrollees of the qualifying MA organization.

The EP must furnish at least 80 percent of his or her professional services covered under Medicare to enrollees of the qualifying MA organization. This means that at least 80 percent of the EP's total Medicare revenue in a year (Medicare Fee for Service plus Medicare Advantage Revenue) must be from a single qualifying MA organization.

In addition, the EP must furnish, on average, at least 20 hours per week of patient services.

These two requirements mean that in general, the MA organization will only satisfy the incentive requirements for an EP when the EP is employed by a single, qualifying MA organization or is employed by or in partnership

with an entity that contracts with a single, qualifying MA organization.

Determination of incentive payments to an MA organization is a somewhat complex process but, in the end, cannot exceed the incentive payments to EP's under the Medicare FFS Program. So the maximum cumulative incentive payment over 5 years to a qualifying MA organization for each of its EP's that is a meaningful user of Certified EHR technology beginning in 2011 or 2012 is \$44,000. The total cumulative incentive payment decreases for EP's that become meaningful users of Certified EHR technology after 2012 with no incentive payment for EP's that become meaningful years of Certified EHR technology after 2014.

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