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Electronic Health Record Incentive Program and PAs

Eligible Professionals

- PAs are *not* considered eligible professionals under the *Medicare* EHR Incentive program.
- Under the *Medicaid* program, PAs are eligible in very limited circumstances (in PA-led RHCs and FQHCs).
- Physicians are eligible under both the Medicare and Medicaid programs.
- Nurse practitioners are eligible under the Medicaid program.

For complete details about practitioner eligibility for both the Medicare and Medicaid EHR Incentive programs, go to the **EHR Incentive Page** on the CMs website.

Medicaid EHR Incentive

Physician assistants are eligible for the Medicaid EHR incentive when working at an FQHC or RHC that is so led by a physician assistant. In response to comments, CMS clarified "so led" to mean:
1) When a PA is the primary provider in a clinic; (for example, and RHC with a part-time physician and a full-time PA would be considered "PA-led"
2) When a PA is a clinical or medical director at a clinical site of practice; or
3) When a PA is an owner of an RHC.

Additionally, for the Medicaid incentive, there is a percentage volume requirement. Eligible Professionals must have a minimum of 30% of their visits as unique encounters. Pediatricians may have 20%.

Regional Extension Centers

The HITECH Act authorizes a Health Information Technology Extension Program to support and serve health care providers to help them quickly become adept and meaningful users of electronic health records (EHRs). Regional Extension Centers (RECs), designed to make sure that primary care clinicians get the help they need to use EHRs, will focus their most intensive technical assistance on clinicians (physicians, physician assistants, and nurse practitioners) furnishing primary-care services, with a particular emphasis on individual and small group practices (fewer than 10 clinicians with prescriptive privileges). Clinicians in such practices deliver the majority of primary care services, but have the lowest rates of adoption of EHR systems, and the least access to resources to help them implement, use and maintain such systems. Regional Extension Centers will also focus intensive technical assistance on clinicians providing primary care in public and critical access hospitals, community health centers, and in other settings that predominantly serve uninsured, underinsured, and medically underserved populations.

For more information, go to the **Office of the National Coordinator's website**, where you will also find a list of the Regional Extension Centers.

Meaningful Use

The Medicare and Medicaid EHR Incentive Programs provide a financial incentive for the "meaningful use" of certified EHR technology to achieve health and efficiency goals. By putting into action and meaningfully using an EHR system, providers will reap benefits beyond financial incentives–such as reduction in errors, availability of records and data, reminders and alerts, clinical decision support, and e-prescribing/refill automation. For more information, see the **Meaningful Use Overview** on the CMS website, as well as a CMS **EHR Meaningful Use Criteria Summary**, with links to the criteria specifications.

The Meaningful Use Objectives specification sheets for the Medicare and Medicaid EHR Incentive Programs bring together critical information on each objective to help eligible professionals and eligible hospitals/critical access hospitals understand what they need to do to demonstrate meaningful use successfully. For **eligible professionals**, there are a total of 25 meaningful use objectives. To qualify for an incentive payment, 20 of these 25 objectives must be met, including:

- 15 required core objectives
- 5 menu set objectives that may be chosen from a list of 10

Pathway to Payment

The **Medicare and Medicaid EHR Incentive Programs checklists** will show you the steps to take to receive your incentive payments, but first:

1. **Find out if you are eligible for either the Medicare or Medicaid EHR Incentive Programs.**
    - Professionals and hospitals can visit the Eligibility page to check eligibility.
2. **Are you a professional eligible for *both* programs? If so, you must choose a program and follow the rest of the relevant checklist below.**
    - See the Medicare EHR Incentive Program Checklist
    - See the Medicaid EHR Incentive Program Checklist

Not sure which program to choose? Compare "Notable Differences between the Medicare and Medicaid EHR Incentive Programs" .

E-Prescribing

It is important to note that PAs are, and have always been, considered eligible professionals in the CMS Electronic-Prescribing (eRx) Incentive Program. For details, click **here**.

AAPA and the EHR Incentive Issue

In response to CMS proposed rules regarding the EHR incentive program, published early in 2010, , the AAPA put out a call for action to the membership entitled-

"Rule to Make PAs Eligible for EHR Incentive Payments"

Comments Urged on CMS Proposed Rule to Make PAs Eligible for EHR Incentive Payments *Physician Assistants are urged to provide comments by no later than March 15th on a proposed rule from the Centers of Medicare and Medicaid Services (CMS) implementing the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5) that provide incentive payments to eligible professionals (EPs) and eligible hospitals participating in Medicare and Medicaid programs that adopt and meaningfully use certified electronic health record (EHR) technology. AAPA has some serious concerns that if not appropriately clarified could severely limit these incentives for PAs to help expand access to care for some of the most medically underserved patients in the country.*

PAs are encouraged to review AAPA's comments on the proposed rule and submit their own comments to CMS using local examples to help reinforce the Academy's concerns. PAs can view the proposed rule and click on "submit comment" to electronically offer their input on the proposed regulations.

CMS responded to AAPA's comments by stating that the incentive is based in law (ARRA 2009), and, as such, cannot be amended by rule-making. Thus, the law itself requires changing-literally an Act of Congress. This was highlighted in the August 2010 PA Professional article, "*Final Rules on Bonus Payments for EHRs Issued*" by Ashley Kent, which follows on the next page:

HEALTH IT

BY ASHLEY KENT

Final Rules on Bonus Payments for EHRs Issued

PAs not included in Medicare program

After receiving thousands of comments on a proposed rule issued in January, the Centers for Medicare & Medicaid Services issued a final rule in July that defines the "meaningful use" objectives for electronic health records that providers must meet in order to qualify for bonus payments from Medicare and Medicaid. PAs are ineligible for the special payments in the Medicare program.

Under the Health Information Technology for Economic and Clinical Health Act of 2009, eligible health care providers and hospitals can qualify for a total of $27 billion in incentive payments over the next decade. Individual providers can receive up to $44,000 under Medicare and $63,750 under Medicaid, and hospitals can receive millions for implementing the technology.

During the comment period for the proposed rule, AAPA sent a letter to CMS addressing the fact that PAs were not included as eligible professionals in the Medicare incentive program. AAPA's letter also requested that the level of recognition of PAs under the Medicaid incentive program be broadened. The proposed rule limits incentives to PA-led clinics in federally qualified health centers or rural health clinics.

In the final rule, CMS acknowledges the comments but says neither CMS nor the secretary of Health and Human Services has the legislative authority to make changes to the definition of "eligible professional."

"While we appreciate the comments that we received on the Medicare EP definition, we are unable to expand or alter this statutory definition or consolidate it with the Medicaid program EP definition as suggested by the commenters. Under the EHR incentive payment program, the law provided a separate Medicare EP definition rather than giving the Secretary authority or discretion to determine who is a Medicare EP, or who is an EP for both the Medicare and Medicaid program."

"A legislative change is required," said Sandy Harding, AAPA's senior director of federal advocacy. "Unfortunately, it's not likely to be accomplished in the remaining days of this Congress—too little time. It will be on the AAPA Legislative Agenda for the 112th Congress, which will convene in January."

In a modification from the proposed rule, the CMS final rule divides the 25 meaningful use objectives into two categories: a core group of required objectives, which must be met in 2011-2012 and a menu set from which providers may choose to defer up to five objectives. Providers must complete a total of 20 objectives: 15 from the core list and five from the menu list.

The final rule also includes the formula for calculating bonus payments as well as a schedule for Medicare payment adjustments for services provided by providers and hospitals that fail to demonstrate meaningful use of certified EHR technology by 2015.

Requirements for meeting meaningful use objectives will be phased in over the next five years. All stage one meaningful use requirements are outlined in the final rule, and are designed to establish a baseline for electronic data capture and information sharing. Objectives for stages two and three will be developed through future CMS final rules.

A companion final rule by the Office of the National Coordinator for Health Information Technology was issued the same day as the CMS final rule. The ONC rule identifies standards and certification criteria for the certification of EHR technology. This rule is meant to ensure that providers and hospitals are using systems that are capable of supporting meaningful use functions. AAPA also submitted comments on this proposed rule.

In June, ONC published a final rule that establishes a temporary certification program for health IT allowing organizations to test and certify EHRs.

Another proposed rule issued July 8 by the Office for Civil Rights would strengthen and expand privacy, security and enforcement protections under the Health Insurance Portability and Accountability Act of 1996. Read more about it on page 18.

For more information on being a meaningful user of health IT and to read the final rules on meaningful use and certification, go to *http://bit.ly/9M5Qmy*. PA

Next Steps

AAPA created an **ACTION ALERT** (February 2011) for PAs to contact their Senators and Representatives to extend the Medicaid EHR Incentive to PAs. Over 200 PAs and PA students attending the AAPA CORE meeting in February lobbied on Capitol Hill to get the message across. The Alert is posted on the AAPA website (and remains active) and was distributed via an Action Alert and PA Advocate:

Action Alert

Extending Medicaid EHR Incentives to PAs
Contact Congress Today!

All PAs are urged to contact Senators and Representatives and ask them to amend the Health Information Technology for Economic and Clinical Health (HITECH) Act to extend the electronic health record (EHR) Medicaid incentive payment to all physician assistants whose patient volume includes at least 30% Medicaid recipients.

The inability of PAs to take part in this incentive program limits patient access to EHR systems. It also creates disincentives for and places artificial limitations on the hiring and placement of PAs in underserved areas, potentially compromising patient access to care provided by PAs.

Please contact your legislators and tell them extend to PAs the ability to participate in the EHR Medicaid incentive payment. Ask them to amend HITECH this year.

Background

As introduced, HITECH offered EHR incentives to physicians, dentists, and advanced practice nurses with a patient volume of at least 30% Medicaid recipients. PAs were not included in the list of eligible health professionals. (An incorrect assumption was made that an incentive payment to physician assistants would be covered under the payment to physicians.) The provision was partially fixed by extending the EHR incentive payment to PAs practicing in a rural health clinic (RHC) or federally qualified health center (FQHC) led by a PA. The partial fix is not sufficient to meet the needs of medical practices and clinics in which PAs provide a high volume of care to Medicaid beneficiaries.

Enhanced, quality patient care is the ultimate beneficiary of the use of electronic health records. The current limitation on Medicaid EHR limits the development of EHR systems for Medicaid beneficiaries who are served by PAs. PAs are often the sole health care professional in medically underserved communities, and they may not be employed by an RHC or FQHC. Some of the most vulnerable practices, who serve at-risk populations, such as border communities, are excluded from the EHR incentive, because it is not made available to PAs with patient volumes of 30% and above Medicaid patients.

Medical practices and clinics that employ a large number of PAs are penalized through the Medicaid EHR incentive limitation. Additionally, an incentive program that fully recognizes physicians and advance practice nurses, but not PAs, creates a financial disincentive for medical practices to hire PAs.

Please contact your legislators today and urge them to take action this year.

Thank you for your advocacy in action!

5/15/2011
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