



## **Health Information Technology (HIT) Incentives in the American Recovery and Reinvestment Act of 2009 – FAQ – 1/12/10**

### **Introduction**

The Department of Health and Human Services, Office of the National Coordinator of HIT (ONC) published preliminary rules on December 30, 2009 about what qualifies as “meaningful use” and about the proposed certification process for EHR systems. ACP is currently reviewing these rules and will update this document shortly.

### **Are there bonus payments for EHR use in the American Recovery and Reinvestment Act of 2009?**

Actually, there are several programs in the Act (also known as the HITECH Act). The Medicare-administered program will work best for most practices. There is a separate Medicaid program available for practices that qualify (see the details below). You can only receive payments from one program. So, it is worth taking some time to compare programs before choosing.

Special note for physicians working for certain Medicare Advantage organizations: Under specific conditions, physicians affiliated with Medicare Advantage organizations that are organized as Health Maintenance Organizations (“HMOs”) will not be paid directly. Instead, the payment incentives for meaningful EHR use go directly to the Medicare Advantage organizations – not to the practices.

### **How does the Medicare incentive program work?**

In order to receive the bonus payments, you must demonstrate “meaningful use” of a “certified system.”. The interim final rule includes specific criteria for demonstration of meaningful use and requires that practices use certified technology. The specific requirements and functionality of what the rule refers to as “complete EHRs” and “EHR modules” are described in the interim final rule. You can review the proposed rule here [<http://healthit.hhs.gov/portal/server.pt>]. ACP will be commenting within the 60 day public comment period on these requirements.

### **How will I demonstrate meaningful use?**

The requirements needed to demonstrate meaningful use have just been released as part of an interim final rule. You can review the proposed rule here [<http://healthit.hhs.gov/portal/server.pt>]. ACP will be commenting within the 60 day public comment period on these requirements, and will update this section once we have completed our review.



## **Are there any limitations on how long I have to be using the system before I qualify for bonus?**

You will have to demonstrate that you are a meaningful user for at least 3 months in 2011 and for a full in 2012-2015 to qualify for the incentive payment. However, as you must become a “meaningful user” of your system you should anticipate the time it will take you to install and integrate your system into your practice, this typically takes six to nine months.

## **How will I know if a particular EHR system is a qualifying system?**

The rules defining the requirements needed to become a “Certified System” have just been released and we will provide you with further information once we have reviewed them completely.

The groups allowed to certify EHR systems for the program have not yet been determined.

## **How much are the bonus payments from Medicare?**

If a practice documents meaningful use of a certified EHR system at the start of 2011:

2011 - \$18,000  
2012 - \$12,000  
2013 - \$8,000  
2014 - \$4,000  
2015 - \$2,000  
Total - \$44,000

If a practice documents meaningful use of a certified EHR system at the start of 2012:

2012 - \$18,000  
2013 - \$12,000  
2014 - \$8,000  
2015 - \$4,000  
2016 - \$2,000  
Total - \$44,000

If a practice documents meaningful use of a certified EHR system at the start of 2013:

2013 - \$15,000  
2014 - \$12,000  
2015 - \$8,000  
2016 - \$4,000



Total - \$39,000

If a practice documents meaningful use of a certified EHR system at the start of 2014:

2014 - \$12,000

2015 - \$8,000

2016 - \$4,000

Total - \$24,000

If a practice documents meaningful use of a certified EHR system at the start of 2015:

2015 - \$0

### **By what date must I be using a qualifying system in order to qualify for the maximum bonus?**

You must be able to demonstrate meaningful use of a certified system by the start of 2012.

### **How does the Medicaid program work?**

In order to qualify for this program, doctors must have a patient volume at least 30 percent attributable to Medicaid patients or, if they practice predominantly in a federally qualified health center or rural health clinic, they have patient volume at least 30 percent attributable to Medicaid patients and other needy individuals as defined by Medicaid rules.

The Federal government will reimburse state spending up to the following limits: (1) 85 percent of \$25,000, or \$21,250, for the purchase and initial implementation of EHR technology, which must occur by 2016, and (2) 85 percent of \$10,000, or \$8,500, per year up to five years for operation and maintenance of the technology, with no payments made after 2021. Thus, the maximum aggregate Federal payments per provider (\$21,250 + \$8,500/year for five years) are \$63,750. As noted, the Federal contribution is based on 85 percent of the costs; the statute requires that the covered providers be responsible for payment of the remaining 15 percent of the costs.

### **If I qualify for the Medicaid program, how do I choose which program to use?**

Your best course is to run the calculations for the Medicaid option based on your estimates for system purchase and operation costs. Also, you will need to review your state's specific regulations regarding this program.

### **What if I already have an EHR system?**

You should talk to your EHR vendor on their plans to become "Certified EHR Technology" as currently proposed in the interim final rule. Once we complete our review of the rules and they are finalized we will provide you with more information on what steps you may need to take to become a "meaningful user".



## What if I purchase an EHR system this year?

Given the long selection and implementation process, you would be well advised to start the process of familiarizing yourself with the EHR systems that are currently in the marketplace. To help you with this process, ACP developed the EHR Partners Program ([http://www.acponline.org/running\\_practice/technology/ehr/partner\\_program/](http://www.acponline.org/running_practice/technology/ehr/partner_program/)) which provides detailed reviews and a comparison tool on several currently CCHIT certified products.

There is currently no guarantee that any system available today will be capable of meeting the expected certification criteria in a timely and effective way, as the criteria have yet to be defined. Still, a good starting point is to look at systems that currently have a recent CCHIT certification. If you decide to purchase an EHR system you should consider including contractual language requiring the EHR vendor to guarantee that it will maintain CCHIT certification and meet any new functionality criteria specified by ONC by 2012, and outline what specific remedies you expect if they do not meet this guarantee.

## What happens if I choose not to implement an EHR system?

If the physician is not a meaningful EHR user, the amount the physician would otherwise receive under the Medicare fee schedule will be reduced to the following levels:

- 99 percent for 2015 (or 98 percent for physicians who are subject to penalty under the e-prescribing provisions for 2014); 98 percent for 2016; and 97 percent for 2017 and each subsequent year. See [http://www.acponline.org/running\\_practice/technology/eprescribing/](http://www.acponline.org/running_practice/technology/eprescribing/) for information on e-prescribing.
- For 2019 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users is less than 75 percent, the applicable fee schedule amount is further adjusted downward by 1 percentage point each year, down to a maximum of 95 percent.

The Act also gives the Secretary the ability, on an annual and case-by-case basis, to exempt a physician from the penalty for up to five years, if HHS determines that being a meaningful EHR user would result in a significant hardship (e.g., if an eligible professional practices in a rural area without sufficient Internet access).

It is important to note that implementing an EHR system takes a substantial amount of time. If you choose to start implementing a system close to the penalty deadline, it is likely that you will not meet the requirements for meaningful use in time to avoid these penalties. It is also likely that there will be a delay in when you can actually install and begin using your EHR system due to the volume of purchases expected by the vendors.

## Is there any purchase assistance available?

The Act also includes grants to the states to help practices implement EHR systems. There is no information yet available about how states will choose to spend these funds. ACP will collect and post information on ACP Online (<http://www.acponline.org>) as it becomes available.



### **Are there less expensive options?**

One alternative to the traditional (client server EHR system) is a web-based service. You will see vendors use terms such as ASP (Application Service Provider) or SaaS (Software as a Service). With this approach you pay a monthly subscription fee to use the EHR system rather than paying up-front for hardware, software, and installation at your facility. In this type of application the vendor typically takes on the responsibility of updating and maintaining the system, which may be beneficial if large numbers of updates are necessary to meet the ONC requirements.

The Act also calls on ONC to offer its own low-cost certified EMR system, unless the Secretary determines that the market does not require this option. Nothing more is known about this requirement, however it is generally believed that such a product would be based on the VistA system that was developed by the Veterans Administration.

### **Is there any other help available?**

The legislation requires the Office of the National Coordinator for Health Information Technology, in consultation with NIST and other agencies with experience in IT services, to establish an HIT extension program to assist providers in adopting and using HIT.

ACP has collected a range of useful resources on EHR systems and other technologies. More information regarding these stimulus Act programs will be posted here as details become available. [http://www.acponline.org/running\\_practice/technology/](http://www.acponline.org/running_practice/technology/)