DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Room 352-G
200 Independence Avenue, SW
Washington, DC 20201

Office of External Affairs & Beneficiary Services

FOR IMMEDIATE RELEASE
July 16, 2010

Contact: CMS Office Media Affairs
(202) 690-6145

FACT SHEET

CMS FINALIZES REQUIREMENTS FOR THE MEDICAID ELECTRONIC HEALTH RECORDS (EHR) INCENTIVE PROGRAM

The Centers for Medicare & Medicaid Services (CMS) today announced the final rule to implement the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act) that provide incentive payments for the adoption and meaningful use of certified electronic health record (EHR) technology. The Medicare EHR incentive program will provide incentive payments to eligible professionals (EPs), eligible hospitals, and critical access hospitals (CAHs) that are meaningful users of certified EHRs. The Medicaid EHR incentive program will provide incentive payments to EPs and eligible hospitals for efforts to adopt, implement, upgrade, or meaningfully use certified EHR technology .

This fact sheet summarizes provisions in the final rule affecting state Medicaid programs and Medicaid providers.

The Office of the National Coordinator for Health Information Technology (ONC) is issuing a closely related final rule that completes the Secretary's adoption of an initial set of standards, implementation specifications, and certification criteria for EHRs. ONC also issued a final rule establishing a temporary certification program for health information technology on June 24, 2010 and will issue a final rule for establishing a permanent program later this year.

The Recovery Act amended the Medicaid statute to provide for a 100 percent Federal financial participation (FFP) match for state expenditures for provider incentive payments to encourage Medicaid health care providers to adopt, implement, upgrade or meaningfully use certified EHR technology. It also established a 90 percent FFP match for reasonable state expenses related to administration of the incentive payments and to promote EHR adoption and health information exchange.

On September 1, 2009, CMS released a State Medicaid Director's Letter that provided preliminary guidance on state expenses related to activities in support of the administration of incentive payments to providers. CMS has worked with all States and territories to facilitate their planning efforts for the purposes of administering the incentive payments to providers, ensuring their proper payments, and auditing and monitoring of such payments, and participating in statewide efforts to promote

interoperability and meaningful use of EHRs. Subsequent guidance to States on implementation funding will be forthcoming.

The final rule CMS released today provides further guidance to states and Medicaid providers on the Medicaid EHR Incentive Program. CMS anticipates that the majority of States will launch their Medicaid EHR Incentive programs between January and August of 2011.

The Medicaid provisions of the final rule address seven topics:

- Eligibility
- Payments
- Adopting, implementing, or upgrading certified EHR technology
- Demonstrating meaningful use of EHR technology
- Conditions for FFP for states
- Financial oversight/combating fraud and abuse

The paragraphs below summarize the rule's treatment of these topics.

Eligibility

The final rule:

- Discusses Medicaid EPs and eligible hospitals that may participate. EPs are physicians (primarily doctors of medicine and doctors of osteopathy), dentists, nurse practitioners, certified nurse midwives, and physician assistants practicing in a Federally Qualified Health Center (FQHC) led by a physician assistant or Rural Health Clinic (RHC) that is so led. Eligible hospitals that can participate are acute care hospitals (which include cancer and critical access hospitals) and children's hospitals;

- Specifies that eligible professionals and hospitals must meet patient volume thresholds, measured by a methodology selected by the state. The two options offered in the final rule include: 1) a ratio where the numerator is the total number of Medicaid patient encounters (or needy individuals) treated in any 90-day period in the previous calendar year and the denominator is all patient encounters over the same period; or 2) a similar ratio where the state may take into account Medicaid patients on a primary care patient panel. For all eligible professionals except pediatricians, the minimum patient volume threshold is 30 percent; for pediatricians, it is 20 percent. Eligible professionals practicing at FQHCs/RHCs must demonstrate that more than 50 percent of their clinical encounters occurred at an FQHC/RHC over a six-month period, and that they had a minimum of 30 percent of their patient volume from needy individuals. Needy individuals are those receiving medical assistance from Medicaid or the Children's Health Insurance Program, individuals who are furnished uncompensated care by the provider, or individuals furnished services at either no cost or reduced cost based on a sliding scale determined by the individual's ability to pay.

- Reiterates a statutory requirement that EPs must also not be hospital-based; meaning, that the EP provides "substantially all of his or her professional services in a hospital setting." Substantially

all" is defined to mean that 90 percent or more of the services are performed in an inpatient or emergency department setting. The proposed rule aligns the definition of hospital-based with the Medicare definition, but allows states to develop a process to verify that EPs are not hospital-based, and therefore eligible to participate..

- Specifies that an acute care hospital is a primary health care facility where the average length of patient stay is 25 days or fewer. Hospitals with an average length of stay of 25 days or fewer and with a CMS Certification Number (CCN) that has the last four digits in the series 0001 – 0879 or 1300-1399 are eligible. This specification will include short term general hospitals, the 11 cancer hospitals, and critical access hospitals in the United States, District of Columbia, and U.S. territories. Acute care hospitals also must have 10 percent Medicaid patient volume in order to participate..

- For children's hospitals, specifies that only those hospitals that have CCNs in the 3300-3399 series will be considered children's hospitals.

-
- Specifies that entities promoting the adoption of certified EHR technology can be designated by states for EPs to voluntarily assign their incentive payments. The statute allows eligible professionals to assign their incentive payments to their employer or to state-designated "entities that promote the adoption of certified EHR technology." The definition of such an entity requires the entity to enable oversight of the business, operational and legal issues involved in the adoption and implementation of EHR and/or the exchange and use of electronic health information between participating providers, in a secure manner.

Payments

The final rule:

- Specifies payment amounts, the basis for payments, and the process for making payments including that there must be no duplication with Medicare for EPs; EPs can receive up to $63,750; pediatricians with more than 20 percent, but less than 30 percent Medicaid patient volume will receive two-thirds of the maximum amount; and hospital payments are based on a formula outlined in the statute;

- Aligns with the Medicare incentive program, where possible. This includes allowing states to initiate their programs as early as January 2011.

- Finalizes the maximum incentive payments introduced in the statute, verified through analysis of studies on the average allowable cost of EHR technology undertaken by the Secretary;

- Requires states to verify the eligibility and disburse payments to Medicaid eligible providers;

- Specifies that while some eligible hospitals may receive incentives from Medicare and Medicaid, EPs must select one program. Furthermore, Medicaid EPs and hospitals must select one state from which to receive their incentive in each year.

- Specifies that states must have a system capable of coordinating with a national database to verify provider eligibility, identity, collect certain data, etc. This system must coordinate and/or make payments.

For hospital payments, the calculation is:

(Overall EHR Amount) * (Medicaid Share)
or
Overall EHR Amount
Equals
{Sum over 4 year of [(Base Amount Plus Discharge Related Amount Applicable for Each Year) * Transition Factor Applicable for Each Year]} *

Medicaid Share
Equals
{(Medicaid inpatient-bed-days + Medicaid managed care inpatient-bed-days) divided by [(total inpatient-bed days) times (estimated total charges minus charity care charges) divided by (estimated total charges)]}

Adopting, Implementing, or Upgrading Certified EHR Technology

The final rule:

- Discusses that providers in their first year of participation in the Medicaid incentive payment program may demonstrate that they have adopted (e.g. acquired, purchased or secured access to), implemented (e.g. installed or commenced utilization of) or upgraded to certified EHR technology in order to qualify for an incentive payment;

- Describes the methodology for demonstrating adoption, implementation and upgrading, and for states to monitor these activities;

Demonstrating Meaningful Use of Certified EHR Technology

The final rule:

- Finalizes a shared minimum definition of meaningful use with Medicare. However, CMS will allow states to request CMS approval to require that four public health related measures be core instead of menu measures for Medicaid providers and to specify some of the destination and transmission details;

- Discusses how clinical quality measures reporting will be submitted to the states by Medicaid providers, such as via attestation or electronically via EHRs.

Conditions States Must Meet to Receive 90 Percent FFP

The final rule:

- Specifies the prior approval conditions that must be met in order to receive FFP for reasonable administrative expenses;

- Establishes the Health Information Technology Advance Planning and Implementation Documents and the requirements for requesting FFP and for the content of the State Medicaid Health Information Technology (HIT) Plans, which describe how States plan to implement their Medicaid EHR Incentive programs..

Financial Oversight/Combating Fraud and Abuse

The final rule:

- Provides that the states will fight fraud and abuse, including ensuring that there shall be no duplication of payment between the Medicare and Medicaid programs as a requirement of the State Medicaid HIT Plan;

- Requires that there will be recoupment of monies if overpayments or erroneous payments are found to have been paid;

- Requires a provider appeals process for eligibility, payments, and determinations of meaningful use as a requirement of the State Medicaid HIT Plan;

- Reiterates CMS' process for financial oversight of the Medicaid Budget and Expenditure System.

The final rule may be viewed at http://www.cms.gov/EHRIncentivePrograms

Other Departmental HITECH Activities

ONC serves as the principal federal entity charged with coordinating the overall effort to implement a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

Specifically, the ONC is authorized by Title XXX of the Public Health Service Act (PHS) to provide grant funding to support states' efforts in achieving meaningful use of certified EHRs. To that end, on August 20, 2009, the Vice President announced the availability of two grant programs to help hospitals and health care providers implement and use EHRs.

The grants made available under Section 3012 of the PHS Act provide funding for Health Information Technology Regional Extension Centers that will provide primary care, small and solo practice clinicians with technical assistance in selection, acquisition, implementation and meaningful use of certified EHR technology. ONC has funded 60 new Health Information Technology Regional Extension Centers (RECs). The purpose of the Regional Extension Center program is to provide physicians with

the guidance and personalized support they need to adopt and meaningfully use EHRs. The objectives are to support 100,000 primary care providers in the United States and its territories by 2012. While direct REC assistance is prioritized to primary-care providers, all providers will be encouraged to participate in outreach and educational opportunities made available through the program and the program will extend best practices in health IT implementation to all physicians.

The grants made available under Section 3013 of the PHS Act provide funding for the State Health Information Exchange Cooperative Agreement Program. This grant funding opportunity establishes funding through cooperative agreements to support efforts to achieve widespread and sustainable health information exchange (HIE) within and among states, and to facilitate and expand the secure, electronic movement and use of health information among organizations according to nationally recognized standards. state programs to promote HIE will help to realize the full potential of EHRs to improve the coordination, efficiency and quality of care. These grants will support statewide planning and implementation and funding for the states' overall HIT strategy.

State Medicaid programs are a critical, decisional partner in these comprehensive statewide plans for the electronic exchange of health information. Additionally, CMS recognizes that Medicaid EHR incentives are one important part of overall planning efforts for statewide HIT adoption and HIE that will be supported by these grant programs.

Ultimately, the Recovery Act provisions are not solely about information systems or information technology, but about improving health care quality and leveraging a wide range of stakeholders and resources, existing and projected, to achieve this goal through the exchange of health information.

Additional information on the Medicare and Medicaid EHR Incentive Programs, including a link to the text of the final rule, can be found at http://www.cms.gov/EHRIncentivePrograms.

# # # # # # #