

HIT Incentives and State Grant Opportunities

American Recovery and Reinvestment Act of 2009

The Health Information Technology for Economic and Clinical Health Act (HITECH Act) under the [Title XIII](#) of the American Recovery and Reinvestment Act of 2009 creates the HIT Policy Committee, HIT Standard Committee, and process for adoption of recommendations for standards and policies from these committees, all of which is overseen by the Office of the National Coordinator for Health Information Technology (ONCHIT). It also establishes provisions for workforce investments, an HIT Extension Program, HIT Research Center, and HIT Regional Extension Centers to provide technical assistance on best practices, and to assist healthcare providers to adopt, implement, and effectively use certified electronic health records (EHRs). This legislation establishes state grants to promote HIT and assist health care providers in HIT adoption and implementation. Part IV of this legislation details Medicare and Medicaid incentives for HIT adoption for health care professionals, prospective payment system (PPS) hospitals, and critical access hospitals (CAHs). These incentives are detailed below.

For more information on a particular topic area, please click on the hyperlink to view the legislation.

The text for Title XIII begins on page 112 of the link; HIT Grant information on page 132; Medicare Incentives page 353; and Medicaid Incentives page 375.

DEFINITIONS

➤ [Certified EHR Technology](#)

- Qualified electronic health record (EHR) that is certified as meeting the standards for hospital settings as adopted by the Office of the National Coordinator for Health Information Technology (ONCHIT)
- Products certified by the Certification Commission for Health Information Technology (CCHIT) meet this definition

➤ [Meaningful EHR User](#)

- Still to be defined
- Legislation states that it is to include:
 - Meaningful use of Certified EHR technology
 - To include the use of electronic prescribing as determined appropriate by the Secretary
 - Information Exchange
 - To improve quality of health care, such as promoting care coordination
 - Reporting on Measures using EHR
 - On clinical quality measures and other measures as selected by the Secretary
 - Attestation (or evidence)
 - Submission of claims with appropriate coding
 - A code indicating patient encounter was documented using certified EHR technology
 - Survey response

➤ Hospitals may be asked to reach Stage 4 of **HIMSS EMR 7 Point Adoption Model**, although not yet determined by the Office of the National Coordinator for HIT

- Estimated that CAHs average 1.3 on 7 Point Adoption Scale while rural and urban Prospective Payment System (PPS) hospitals average 2.4

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MEDICARE INCENTIVE FOR ELIGIBLE PROFESSIONALS

- Definition of Eligible Professional means a physician as defined in Section 1861 (r) of the Social Security Act:
 - Doctor of Medicine or Osteopathy
 - Doctor of Dental Surgery or of Dental Medicine
 - Doctor of Podiatric Medicine
 - Doctor of Optometry
 - Chiropractor
- Incentive value to be 75% of allowed Medicare charges for professional services for a payment year with yearly maximums as described in the below table if the eligible professional is a Meaningful EHR User.

Eligible Physician Adoption Maximum Incentive Payment Schedule for Meaningful EHR User

| Year | Eligible Physician EHR Adoption Incentive for Meaningful EHR User | Eligible Physician EHR Non-Meaningful User Penalty |
|------|--|---|
| 2011 | 1 st year: \$18,000; 4 th year: \$4,000 2 nd year: \$12,000; 5 th year: \$2,000; 3 rd year: \$8,000; after 5 th year: \$0 Total: \$44,000 | None |
| 2012 | 1 st year: \$18,000; 4 th year: \$4,000 2 nd year: \$12,000; 5 th year: \$2,000; 3 rd year: \$8,000; after 5 th year: \$0 Total: \$44,000 | None |
| 2013 | 1 st year: \$15,000; 4 th year: \$4,000 2 nd year: \$12,000; 5 th year: --- (no payments after 2016); 3 rd year: \$8,000; after 5 th year: \$0 Total: \$39,000 | None |
| 2014 | 1 st year: --- ; 4 th year: --- (no payments after 2016); 2 nd year: \$12,000; 5 th year: --- (no payments after 2016); 3 rd year: \$8,000; after 5 th year: \$0 Total: \$24,000 | None |
| 2015 | No eligible physician incentive for adoption of EHR Meaningful Use if implemented after 2014 | 2015: 1% reduction in Medicare fee schedule |
| 2016 | | 2016: 2% reduction in Medicare fee schedule |
| 2017 | | 2017: 3% reduction in Medicare fee schedule |
| 2018 | | 2018 and after: Penalty at Secretary's discretion. If determined that less than 75% of eligible professionals are meaningful adopters, can go up to a 5% reduction. |

- If the eligible physician is practicing in a **Health Professional Shortage Area**, then they can receive a 10% increase in incentive payments

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- If first year implementation in 2011 or 2012, total incentive payments = \$48,400
 - If first year implementation in 2013 or 2014, total incentive payments = \$45,100
- **Significant Hardship Exception**
- On a case-by-case basis
 - If compliance with requirement to be a meaningful EHR user would result in significant hardship (i.e., rural area without sufficient Internet access)
 - Determined by the Secretary
 - Exemption cannot be for more than 5 years
- Paid in either a single consolidated payment or periodic installments – Secretary may specify
- Secretary to establish rules for payments for professionals working in more than one practice as payments will not be duplicative
- The above Incentive Payment Schedule **does not** apply to a **hospital-based** eligible professional:
- i.e., pathologist, anesthesiologist, emergency physician
 - Hospital-based professional furnishes substantially all of such services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified EHRs of the hospital
 - Determination of hospital-based professional made by site-of-service and without regard to employment or billing arrangement between the eligible professional and any provider

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MEDICARE INCENTIVE FOR PROSPECTIVE PAYMENT SYSTEM (PPS) HOSPITALS

➤ Incentive payment per PPS Hospital for EHR Meaningful Use Adoption:

$$\text{\$2M Base} + \text{Discharge Payment} \times \text{Medicare Share}$$

| | |
|--------------------------|---|
| <i>Definitions:</i> | |
| <u>Discharge Payment</u> | <ul style="list-style-type: none"> ▪ 1st – 1,149th discharge = \$0/discharge ▪ 1,150th – 23,000th discharge = \$200/discharge ▪ 23,001st discharge or more = \$0/discharge |
| <u>Medicare Share</u> | $\frac{\text{Estimated \# of inpatient-bed days with payment under Part A} + \text{Estimated \# of inpatient-bed days for those enrolled with Medicare Advantage Part C}}{\text{Estimated total \# inpatient days} \times \text{Percentage of an eligible hospital's total charges that are not charity care}}$ |

EHR Adoption Timeline Incentives and Penalties for Meaningful Users of EHR at PPS Hospitals

| Year | PPS Hospital EHR Adoption Incentive for Meaningful Use | PPS Hospital EHR Non-Meaningful User Penalty |
|------|--|---|
| 2011 | <ul style="list-style-type: none"> ▪ Year 1 of adoption = 1 x (formula) ▪ Year 2 of adoption = ¾ x (formula) ▪ Year 3 of adoption = ½ x (formula) ▪ Year 4 of adoption = ¼ x (formula) ▪ Year 5 of adoption = 0 x (formula) → no more incentive | None |
| 2012 | <ul style="list-style-type: none"> ▪ Year 1 of adoption = 1 x (formula) ▪ Year 2 of adoption = ¾ x (formula) ▪ Year 3 of adoption = ½ x (formula) ▪ Year 4 of adoption = ¼ x (formula) ▪ Year 5 of adoption = 0 x (formula) → no more incentive | None |
| 2013 | <ul style="list-style-type: none"> ▪ Year 1 of adoption = 1 x (formula) ▪ Year 2 of adoption = ¾ x (formula) ▪ Year 3 of adoption = ½ x (formula) ▪ Year 4 of adoption = ¼ x (formula) ▪ Year 5 of adoption = 0 x (formula) → no more incentive | None |
| 2014 | <ul style="list-style-type: none"> ▪ Year 2 of adoption = ¾ x (formula) ▪ Year 3 of adoption = ½ x (formula) ▪ Year 4 of adoption = ¼ x (formula) ▪ Year 5 of adoption = 0 x (formula) → no more incentive | None |
| 2015 | <ul style="list-style-type: none"> ▪ Year 3 of adoption = ½ x (formula) ▪ Year 4 of adoption = ¼ x (formula) ▪ Year 5 of adoption = 0 x (formula) → no more incentive | 2015: 0.333% reduction to 0.75 increase in Market Basket Adjustment (MBA) |
| 2016 | If a hospital adopts Meaningful EHR Use after 2015, then: | 2016: 0.667% reduction to 0.75 increase in MBA |
| 2017 | | 2017: 1.0% reduction to 0.75 increase in MBA |

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MEDICARE INCENTIVE FOR CRITICAL ACCESS HOSPITALS (CAHs)

- Critical Access Hospitals (CAHs) that are Meaningful EHR Users by 2011 are **eligible for 4 years of enhanced Medicare payment with immediate full depreciation of certified EHR costs, including undepreciated costs from previous years**

- CAH enhanced Medicare payment formula (“formula”):

$$\text{Total EHR Costs} \times (\text{Medicare Share} + 20\%)$$

| |
|--|
| <i>Definitions:</i> |
| <p><u>Medicare Share</u></p> $\frac{\text{Estimated \# of inpatient-bed days with payment under Part A} + \text{Estimated \# of inpatient-bed days for those enrolled with Medicare Advantage Part C}}{\text{Estimated total \# inpatient days} \times \text{Percentage of an eligible hospital's total charges that are not charity care}}$ |

EHR Adoption Timeline Incentives and Penalties for Meaningful Users of EHR at CAHs

| Year | CAH EHR Adoption Incentive for Meaningful Use | CAH EHR Non-Meaningful User Penalty |
|------|---|---|
| 2011 | Above incentive formula for 2011-2014 | None |
| 2012 | Above incentive formula for 2012-2014 | None |
| 2013 | Above incentive formula for 2013-2014 | None |
| 2014 | Above incentive formula for 2014 only | None |
| 2015 | If CAH adopts Meaningful EHR Use after 2014: <ul style="list-style-type: none"> ▪ Normal cost-based reimbursement applies, no incentive formula | 2015: 0.33% reduction in Medicare reimbursement |
| 2016 | | 2016: 0.66% reduction in Medicare reimbursement |
| 2017 | | 2017 and beyond: 1.0% reduction in Medicare reimbursement |

- **Significant Hardship Exception**
 - On a case-by-case basis
 - If compliance with requirement to be a meaningful EHR user would result in significant hardship (i.e., rural area without sufficient Internet access)
 - Determined by the Secretary
 - Exemption cannot be for more than 5 years
- Payments to be paid through prompt interim payment

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MEDICAID INCENTIVES

- **Each state must approve demonstration Meaningful Use for their state**
 - Approval needed by Secretary of US Dept. of Health and Human Services (HHS)
 - Preliminary guidance includes use of certified EHR, information exchange, and clinical quality measures reporting

- Professionals eligible for either Medicaid or Medicare incentives – they cannot receive both and need to choose
- Acute care hospitals, including Critical Access Hospitals (CAHs) are eligible for both Medicare and Medicaid incentives

- **Medicaid Incentive to Eligible Professionals**
 - **Not hospital-based professional with at least 30% Medicaid patient volume**
 - Physician, dentist, certified nurse mid-wife, nurse practitioner, physician assistance who practices in a Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC) that is led by a physician assistant
 - Payments cover up to 85% of net allowable costs for EHR technology, support services, maintenance and training for a provider to adopt and operate the EHR technology
 - Allowable costs for Year 1 payments are the average costs, from studying eligible professionals, for the purchase and initial implementation or upgrade of EHR technology, including support services for training for adoption and initial operation of the technology
 - Net average for Year 1 cannot exceed \$25,000 and Year 1 cannot be after 2016
 - $85\% \times \$25,000 = \$21,500$
 - Allowable costs for Subsequent Years payments are the average cost, for studying eligible professionals, for operation, maintenance, and use of technology (excludes initial purchase and implementation and training costs from Year 1)
 - Net average for Subsequent Years cannot exceed \$10,000 per year
 - $85\% \times \$10,000 = \$8,500$
 - No payments after 2016 or for more than a 5 year period
 - If completed adopting, implementing or upgrading EHR technology prior to the 1st year of payments, the net allowable costs for subsequent years applies for all year up to 5, including the 1st year of payments to such provider

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- **Not hospital-based pediatrician with at least 20% Medicaid patient volume**
 - Payments cover up to 2/3 of 85% of net allowable costs for EHR technology, support services, maintenance and training for a provider to adopt and operate the EHR technology
 - Allowable costs for Year 1 payments – defined the same as above
 - Net average for Year 1 cannot exceed \$25,000 and Year 1 cannot be after 2016
 - $2/3 \times (85\% \times \$25,000) = \$14,333.3$
 - Allowable costs for Subsequent Years payments – defined the same as above
 - Net average for Subsequent Years cannot exceed \$10,000 per year
 - $2/3 \times (85\% \times \$10,000) = \$5,666.67$
 - No payments after 2016 or for more than a 5 year period
 - If completed adopting, implementing or upgrading EHR technology prior to the 1st year of payments, the net allowable costs for subsequent years applies for all year up to 5, including the 1st year of payments to such provider
- **Eligible professional who practices in a FQHC or RHC with at least 30% patient volume attributable to needy individuals**
 - Needy Individuals defined as those individuals:
 - Receiving Medicaid;
 - Receiving assistance under title XXI;
 - Who is furnished uncompensated care by a provider; OR
 - Who received reduced charges by the provider on a sliding scale basis based on the individual's ability to pay
 - Payments cover up to 85% of net allowable costs for EHR technology, support services, maintenance and training for a provider to adopt and operate the EHR technology
 - Allowable costs for Year 1 payments – defined the same as above
 - Net average for Year 1 cannot exceed \$25,000 and Year 1 cannot be after 2016
 - $85\% \times \$25,000 = \$21,500$
 - Allowable costs for Subsequent Years payments – defined the same as above
 - Net average for Subsequent Years cannot exceed \$10,000 per year
 - $85\% \times \$10,000 = \$8,500$
 - No payments after 2016 or for more than a 5 year period
 - If completed adopting, implementing or upgrading EHR technology prior to the 1st year of payments, the net allowable costs for subsequent years applies for all year up to 5, including the 1st year of payments to such provider
- **Hospital-based** defined as:
 - A professional (such as a pathologist, anesthesiologist, or emergency physician) who furnished substantially all services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified EHRs, of the hospital
 - Determination is made on the basis of site of services and without regard to any employment or billing arrangement made between the professional and any other provider

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➤ **Medicaid Incentives to Eligible Hospitals**

- All Children’s hospitals – regardless of Medicaid patient volume
- Acute-care hospitals (including CAHs) with at least 10% Medicaid patient volume
- **Incentive Payment Formula:**

(EHR cost x Medicaid Share) x 50% for one year

➤ --- or ---

(EHR cost x Medicaid Share) x 90% for 2 year-period

- Hospital EHR cost defined as the sum of 4 years of payment using:

$$\$2\text{M Base} + \text{Discharge Payment} \times \text{Medicaid Share}$$
- Medicaid Share calculated in same methods as Medicare Share but for Medicaid inpatient days and including Medicaid managed care plan
- Payment schedule to use the following transition factor for the 4 years of Hospital EHR cost:
 - Year 1 of adoption = 1 x (EHR cost)
 - Year 2 of adoption = $\frac{3}{4}$ x (EHR cost)
 - Year 3 of adoption = $\frac{1}{2}$ x (EHR cost)
 - Year 4 of adoption = $\frac{1}{4}$ x (EHR cost)
- No payments beyond 2016 unless hospital received payment in the previous year
- Payments cannot exceed 6 years

• **Example:**

If EHR Cost = \$5,000,000 and Medicaid Share = 15%

| | <u>Overall Hospital EHR Amount</u> |
|--|---|
| Year 1 Transition Factor = 1 | 1 x \$5,000,000 = \$5,000,000 |
| Year 2 Transition Factor = $\frac{3}{4}$ | $\frac{3}{4}$ x \$5,000,000 = \$3,750,000 |
| Year 3 Transition Factor = $\frac{1}{2}$ | $\frac{1}{2}$ x \$5,000,000 = \$2,500,000 |
| Year 4 Transition Factor = $\frac{1}{4}$ | $\frac{1}{4}$ x \$5,000,000 = \$1,250,000 |

Total 4 Year Sum \$12,500,000

Aggregated payment maximum = Total 4 Year Sum x Medicaid Share
= \$1,875,000

- 50% of aggregated payment maximum could be received in one year
- Or 90% could be received in a two-year period

- 10% administrative fee for State match, including tracking of meaningful use, conducting oversight, and pursuing initiatives to encourage adoption

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STATE PLANNING AND IMPLEMENTATION GRANTS TO PROMOTE HIT

- Use of Funds
 - Enhancing use and exchange of health information
 - Identifying state and local resources
 - Complementing other Federal grants, programs, efforts to promote HIT
 - Promote strategies to adopt HIT in medically underserved communities
 - Assist patients to use HIT
 - Encourage clinicians to work with HIT Regional Extension Centers
 - Support public health agencies to use and access health information
 - Promote use of EHR for quality improvement

Required Matching

| Year | State Dollar | Federal Dollar |
|-----------------|--------------|----------------|
| 2011 | At least \$1 | \$10 |
| 2012 | At least \$1 | \$7 |
| 2013 and beyond | At least \$1 | \$3 |

COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES

- For the development of loan programs to facilitate the widespread adoption of certified EHR technology
- Use of Funds
 - Purchase EHR
 - Enhance utilization of EHR
 - Train personnel
 - Improve electronic exchange of health information
- Secretary cannot make this award until after January 2, 2010
- Program is optional and requires \$1 nonfederal match for every \$5 federal awarded

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