

# HITECH ACT FACTS

Physicians (Eligible Professional - EP)

## Medicaid vs. Medicare

- Reimbursement is specific to the INDIVIDUAL EP.
- An EP may ONLY receive ONE type of reimbursement (Medicaid or Medicare) NOT both. EPs can change between programs 1 time between 2012 and 2014.
- A physician group practice may mix and match based on individual EPs.
- Calculations for reimbursement will be based on prior year volumes.
- Hospital-based EP's are not eligible for EHR incentive payment. A hospital-based EP is defined as an EP providing "substantially all" of his or her covered professional services in a hospital setting. Substantially all is being defined as providing (90% of services in an inpatient or emergency room setting. This determination will be based on Place of Service (POS) codes (POS Codes 21, 22, and 23).
- Providers cannot continue to get the eRX credits once they begin receiving the Stimulus incentives.

## Medicaid

*(EPs who see more than 30% of patients paying with Medicaid (20% for pediatricians) are eligible for payments)*

Amount - \$63,750 over six years

Up to \$21,250 year 1

Up to \$8,500 in subsequent years (up to a maximum of 6 years)

## Medicare

Amount - Up to \$44,000 over 5 years

Calculated based on 75 percent of Medicare allowable charges for covered services up to the maximum per year as identified below:

Demonstrated Meaningful Use	2011	2012	2013	2014	2015	2016	2017	Total
2011	\$18,000	\$12,000	\$8,000	\$4,000	\$2,000	\$0	\$0	\$44,000
2012		\$18,000	\$12,000	\$8,000	\$4,000	\$2,000	\$0	\$44,000
2013			\$15,000	\$12,000	\$8,000	\$4,000	\$0	\$39,000
2014				\$12,000	\$8,000	\$4,000	\$0	\$24,000
2015					-1%	\$0	\$0	\$0
2016					-1%	-2%	\$0	\$0
2017					-1%	-2%	-3%	\$0

*(Physicians operating in a "health provider shortage area" will be eligible for an incremental increase of 10%)*

*For 2018 and thereafter, if the Secretary finds that the proportion of EPs who are meaningful EHR users is less than 75 percent, then the reductions will be increased by 1 percentage point each year, but by not more than 5 percent overall.*

- Currently, mid-levels do not qualify under the Medicare incentive program.

## Payments

### Medicare

- EHR Reporting Period – CMS proposes the first reporting period be any continuous 90 day period within the year. For every year after the first payment year, the EHR reporting period will be the entire year.
- Payment Year = Calendar Year
- See payment schedule/chart above
- Payments will be disbursed through Medicare Administrative Contractors (MAC) or carriers to the Tax identification number provided by the EP.
- Under certain conditions, EPS can reassign the entire amount of the incentive payment to one employer or entity.
- EPs who are not meaningful EHR users will be subject to lower payment updates for their covered professional services beginning in 2015.

### Medicaid

- States will verify eligibility and disburse payments
- EP's and hospitals must choose one state per year
- Payments will be based on Calendar Year
- States may request from CMS the approval to tailor the definition as it pertains specifically to public health objectives.

## Meaningful Use

On July 14, 2010, CMS released their 862 page final rule on the requirements for the EHR incentive program (RIN 0938-AP78 and CMS-0033-F). The major component of this rule is the definition of meaningful use. CMS is proposing a multiple stage rollout for meaningful use. Stage 1 is the focus of the current rule. Stage 1 criteria will be in effect for reporting year 2011. CMS anticipates that Stage 2 will be implemented for reporting year 2013, and Stage 3 will be implemented for reporting year 2015 or later.

### Stages of Criteria By Payment Year

First Payment Year	2011	2012	2013	2014	2015
2011	Stage 1	Stage 1	Stage 2	Stage 2	TBD
2012		Stage 1	Stage 1	Stage 2	TBD
2013			Stage 1	Stage 1	TBD
2014				Stage 1	TBD

For Stage 1, CMS proposes 25 objectives for Eligible Professionals (EPS). For a detailed listing of the EPs and Hospital criteria, please visit our website:

[www.ddfky.com/HITECH-Act.html](http://www.ddfky.com/HITECH-Act.html)

## HIPAA Regulations that were modified as part of the ACT

- The State Attorney General now has the authority to monitor and prosecute HIPAA violations. Previously this fell under Federal Jurisdiction only.
- New definitions of a Breach
- Authorizing civil monetary penalties
- New disclosure rules
- New, stricter rules around Business Associate Agreements