

§ 495.102

42 CFR Ch. IV (10–1–10 Edition)

Eligible hospital means a hospital subject to the prospective payment system specified in § 412.1(a)(1) of this chapter, excluding those hospitals specified in § 412.23 of this chapter, and excluding those hospital units specified in § 412.25 of this chapter.

Eligible professional (EP) means a physician as defined in section 1861(r) of the Act, which includes, with certain limitations, all of the following types of professionals:

- (1) A doctor of medicine or osteopathy.
- (2) A doctor of dental surgery or medicine.
- (3) A doctor of podiatric medicine.
- (4) A doctor of optometry.
- (5) A chiropractor.

Geographic health professional shortage area (HPSA) means a geographic area that is designated by the Secretary under section 332(a)(1)(A) of the PHS Act as of December 31 of the year prior to the payment year as having a shortage of health professionals.

Qualifying CAH means a CAH that is a meaningful EHR user for the EHR reporting period for a cost reporting period beginning during a payment year.

Qualifying eligible professional (qualifying EP) means an EP who is a meaningful EHR user for the EHR reporting period for a payment year and who is not a hospital-based EP, as determined for that payment year.

Qualifying hospital means an eligible hospital that is a meaningful EHR user for the EHR reporting period for a payment year.

§ 495.102 Incentive payments to EPs.

(a) *General rules.* (1) Subject to paragraph (b) of this section, in addition to the amount otherwise paid under section 1848 of the Act, there must be paid to a qualifying EP (or to an employer or entity in the cases described in section 1842(b)(6)(A) of the Act) for a payment year an amount equal to 75 percent of the estimated allowed charges for covered professional services furnished by the EP during the payment year.

(2) For purposes of this paragraph (a) of this section, the estimated allowed charges for the qualifying EP's covered professional services during the payment year are determined based on

claims submitted no later than 2 months after the end of the payment year, and, in the case of a qualifying EP who furnishes covered professional services in more than one practice, are determined based on claims submitted for the EP's covered professional services across all such practices.

(b) *Limitations on amounts of incentive payments.*

(1) Except as otherwise provided in paragraphs (b)(2) and (c) of this section, the amount of the incentive payment under paragraph (a) of this section for each payment year is limited to the following amounts:

- (i) For the first payment year, \$15,000 (or, if the first payment year for such qualifying EP is 2011 or 2012, \$18,000).
- (ii) For the second payment year, \$12,000.
- (iii) For the third payment year, \$8,000.
- (iv) For the fourth payment year, \$4,000.
- (v) For the fifth payment year, \$2,000.
- (vi) For any succeeding payment year for such professional, \$0.

(2)(i) If the first payment year for a qualifying EP is 2014, then the payment limit for a payment year for the qualifying EP is the same as the amount specified in paragraph (b)(1) of this section for such payment year for a qualifying EP whose first payment year is 2013.

(ii) If the first payment year for a qualifying EP is after 2014, then the payment limit specified in this paragraph for such EP for such year and any subsequent year is \$0.

(c) *Increase in incentive payment limit for EPs who predominantly furnish services in a geographic HPSA.* In the case of a qualifying EP who in the year prior to the payment year furnishes more than 50 percent of his or her covered professional services in a geographic HPSA that is designated as of December 31 of such year, the incentive payment limit determined under paragraph (b) of this section is to be increased by 10 percent.

(d) *Payment adjustment effective in CY 2015 and subsequent years for nonqualifying EPs.*

(1) Subject to paragraph (d)(3) of this section, beginning in 2015, for covered professional services furnished by an

EP who is not a qualifying EP or a hospital-based EP for the year, the payment amount for such services is equal to the product of the applicable percent specified in paragraph (d)(2) of this section and the Medicare physician fee schedule amount for such services.

(2) *Applicable percent.* Applicable percent is as follows:

(i) For 2015, 99 percent if the EP is not subject to the payment adjustment for an EP who is not a successful electronic prescriber under section 1848(a)(5) of the Act, or 98 percent if the EP is subject to the payment adjustment for an EP who is not a successful electronic prescriber under section 1848(a)(5) of the Act.

(ii) For 2016, 98 percent.

(iii) For 2017 and each subsequent year, 97 percent.

(3) *Significant hardship exception.* (i) The Secretary may, on a case-by-case basis, exempt an EP who is not a qualifying EP from the application of the payment adjustment under paragraph (d)(1) of this section if the Secretary determines that compliance with the requirement for being a meaningful EHR user would result in a significant hardship for the EP.

(ii) The Secretary's determination to grant an EP an exemption under paragraph (d)(3)(i) of this section may be renewed on an annual basis, provided that in no case may an EP be granted an exemption under paragraph (d)(3)(i) of this section for more than 5 years.

§ 495.104 Incentive payments to eligible hospitals.

(a) *General rule.* A qualifying hospital (as defined in this subpart) must receive the special incentive payment as determined under the formulas described in paragraph (c) of this section for the period specified in paragraph (b) of this section.

(b) *Transition periods.* Subject to paragraph (d) of this section and the payment formula specified in paragraph (c) of this section, qualifying hospitals may receive incentive payments during transition periods which comprise the following fiscal years:

(1) Hospitals whose first payment year is FY 2011 may receive such payments for FYs 2011 through 2014.

(2) Hospitals whose first payment year is FY 2012 may receive such payments for FYs 2012 through 2015.

(3) Hospitals whose first payment year is FY 2013 may receive such payments for FYs 2013 through 2016.

(4) Hospitals whose first payment year is FY 2014 may receive such payments for FY 2014 through 2016.

(5) Hospitals whose first payment year is FY 2015 may receive such payments for FY 2015 through 2016.

(c) *Payment methodology.* (1) The incentive payment for each payment year is calculated as the product of the following:

(i) The initial amount determined under paragraph (c)(3) of this section.

(ii) The Medicare share fraction determined under paragraph (c)(4) of this section.

(iii) The transition factor determined under paragraph (c)(5) of this section.

(2) *Interim and final payments.* CMS uses data on hospital acute care inpatient discharges, Medicare Part A acute care inpatient-bed-days, Medicare Part C acute care inpatient-bed-days, and total acute care inpatient-bed-days, from the latest submitted 12-month hospital cost report as the basis for making preliminary incentive payments. Final payments are determined at the time of settling the first 12-month hospital cost report for the hospital fiscal year that begins on or after the first day of the payment year, and settled on the basis of data from that cost reporting period.

(3) *Initial amount.* The initial amount is equal to one of the following:

(i) For each hospital with 1,149 acute care inpatient discharges or fewer, \$2,000,000.

(ii) For each hospital with at least 1,150 but no more than 23,000 acute care inpatient discharges, $\$2,000,000 + [\$200 \times (n - 1,149)]$, where n is the number of discharges for the hospital.

(iii) For each hospital with more than 23,000 acute care inpatient discharges, \$6,370,200.

(4) *Medicare share fraction—(i) General.* (A) CMS determines the Medicare share fraction for an eligible hospital by using the number of Medicare Part A, Medicare Part C, and total acute care inpatient-bed-days using data