

**§ 495.106**

**42 CFR Ch. IV (10–1–10 Edition)**

from the Medicare cost report as specified by CMS.

(B) CMS computes the denominator of the Medicare share fraction using the charity care charges reported on the hospital's Medicare cost report.

(ii) The Medicare share fraction is the ratio of—

(A) A numerator which is the sum of—

(1) The number of inpatient-bed-days which are attributable to individuals with respect to whom payment may be made under Part A, including individuals enrolled in section 1876 Medicare cost plans; and

(2) The number of inpatient-bed-days which are attributable to individuals who are enrolled with a Medicare Advantage organization (as defined in § 422.2 of this chapter).

(B) A denominator which is the product of—

(1) The total number of acute care inpatient-bed-days; and

(2) The total amount of the eligible hospital's charges, not including any charges that are attributable to charity care, divided by the estimated total amount of the hospitals charges.

(5) *Transition factor.* For purposes of the payment formula, the transition factor is as follows:

(i) For hospitals whose first payment year is FY 2011—

(A) 1 for FY 2011;

(B)  $\frac{3}{4}$  for FY 2012;

(C)  $\frac{1}{2}$  for FY 2013; and

(D)  $\frac{1}{4}$  for FY 2014.

(ii) For hospitals whose first payment year is FY 2012—

(A) 1 for FY 2012;

(B)  $\frac{3}{4}$  for FY 2013;

(C)  $\frac{1}{2}$  for FY 2014; and

(D)  $\frac{1}{4}$  for FY 2015;

(iii) For hospitals whose first payment year is FY 2013—

(A) 1 for FY 2013;

(B)  $\frac{3}{4}$  for FY 2014;

(C)  $\frac{1}{2}$  for FY 2015; and

(D)  $\frac{1}{4}$  for FY 2016.

(iv) For hospitals whose first payment year is FY 2014—

(A)  $\frac{3}{4}$  for FY 2014;

(B)  $\frac{1}{2}$  for FY 2015; and

(C)  $\frac{1}{4}$  for FY 2016.

(v) For hospitals whose first payment year is FY 2015—

(A)  $\frac{1}{2}$  for FY 2015; and

(B)  $\frac{1}{4}$  for FY 2016.

(d) No incentive payment for non-qualifying hospitals. After the first payment year, an eligible hospital will not receive an incentive payment for any payment year during which it is not a qualifying hospital.

**§ 495.106 Incentive payments to CAHs.**

(a) *Definitions.* In this section, unless otherwise indicated—

*Payment year* means a Federal fiscal year beginning after FY 2010 but before FY 2016.

*Qualifying CAH* means a CAH that would meet the definition of a meaningful EHR user at § 495.4, if it were an eligible hospital.

*Reasonable costs incurred for the purchase of certified EHR technology* for a qualifying CAH means the reasonable acquisition costs incurred for the purchase of depreciable assets as described in part 413 subpart G of this chapter, such as computers and associated hardware and software, necessary to administer certified EHR technology as defined in § 495.4, excluding any depreciation and interest expenses associated with the acquisition.

(b) *General rule.* A qualifying CAH receives an incentive payment for its reasonable costs incurred for the purchase of certified EHR technology, as defined in paragraph (a) of this section, in the manner described in paragraph (c) of this section for a cost reporting period beginning during a payment year as defined in paragraph (a) of this section.

(c) *Payment methodology.* (1) *Payment amount.* A qualifying CAH receives an incentive payment amount equal to the product of its reasonable costs incurred for the purchase of certified EHR technology and the Medicare share percentage.

(2) *Calculation of reasonable costs.* CMS or its Medicare contractor computes a qualifying CAH's reasonable costs incurred for the purchase of certified EHR technology, as defined in paragraph (a) of this section, as the sum of—

(i) The reasonable costs incurred for the purchase of certified EHR technology during the cost reporting period that begins in a payment year; and

(ii) Any reasonable costs incurred for the purchase of certified EHR technology in cost reporting periods beginning in years prior to the payment year which have not been fully depreciated as of the cost reporting period beginning in the payment year.

(3) *Medicare share percentage.* Notwithstanding the percentage applicable under § 413.70(a)(1) of this chapter, the Medicare share percentage equals the lesser of—

(i) 100 percent; or

(ii) The sum of the Medicare share fraction for the CAH as calculated under § 495.104(c)(4) of this subpart and 20 percentage points.

(d) *Incentive payments made to CAHs.*

(1) The amount of the incentive payment made to a qualifying CAH under this section represents the expensing and payment of the reasonable costs computed in paragraph (c) of this section in a single payment year and, as specified in § 413.70(a)(5) of this chapter, such payment is made in lieu of payment that would have been made under § 413.70(a)(1) of this chapter for the reasonable costs of the purchase of certified EHR technology including depreciation and interest expenses associated with the acquisition.

(2) The amount of the incentive payment made to a qualifying CAH under this section is paid through a prompt interim payment for the applicable payment year after—

(i) The CAH submits the necessary documentation, as specified by CMS or its Medicare contractors, to support the computation of the incentive payment amount under this section; and

(ii) CMS or its Medicare contractor reviews such documentation and determines the interim amount of the incentive payment.

(3) The interim incentive payment made under this paragraph is subject to a reconciliation process as specified by CMS and the final incentive payment as determined by CMS or its Medicare contractor is considered payment in full for the reasonable costs incurred for the purchase of certified EHR technology in a single payment year.

(4) In no case may an incentive payment be made with respect to a cost reporting period beginning during a pay-

ment year before FY 2011 or after FY 2015 and in no case may a CAH receive an incentive payment under this section with respect to more than 4 consecutive payment years.

(e) *Reductions in payment to CAHs.* For cost reporting periods beginning in FY 2015, if a CAH is not a qualifying CAH for a payment year, then the payment for inpatient services furnished by a CAH under § 413.70(a) of this chapter is adjusted by the applicable percentage described in § 413.70(a)(6) of this chapter unless otherwise exempt from such adjustment.

(f) *Administrative or judicial review.* There is no administrative or judicial review under sections 1869 or 1878 of the Act, or otherwise, of the—

(1) Methodology and standards for determining the amount of payment, the reasonable cost, and adjustments described in this section including selection of periods for determining, and making estimates or using proxies of, inpatient-bed-days, hospital charges, charity charges, and the Medicare share percentage as described in this section;

(2) Methodology and standards for determining if a CAH is a qualifying CAH under this section;

(3) Specification of EHR reporting periods, cost reporting periods, payment years, and fiscal years used to compute the CAH incentive payment as specified in this section; and

(4) Identification of the reasonable costs used to compute the CAH incentive payment under paragraph (c) of this section including any reconciliation of the CAH incentive payment amount made under paragraph (d) of this section.

**§ 495.108 Posting of required information.**

(a) CMS posts, on its Internet Web site, the following information regarding EPs, eligible hospitals, and CAHs receiving an incentive payment under subparts B and C of this part:

(1) Name.

(2) Business addressee.

(3) Business phone number.

(4) Such other information as specified by CMS.

(b) CMS posts, on its Internet Web site, the following information for