§ 495.204 Incentive payments to qualifying MA organizations for MA–EPs and MA-affiliated eligible hospitals.

(a) General rule. A qualifying MA organization receives an incentive payment for its qualifying MA–EPs and its qualifying MA–eligible hospitals. The incentive payment amount paid to a qualifying MA organization for a—

(1) Qualifying MA–EP is the amount determined under paragraph (b) of this section; and

(2) Qualifying MA-eligible hospital is the amount determined under paragraph (c) of this section.

(b) Amount payable to qualifying MA organization for qualifying MA EPs. (1) CMS substitutes an amount determined to be equivalent to the amount computed under §495.102 of this part.

(2) The qualifying MA organization must report to CMS within 60 days of the close of the calendar year, the aggregate annual amount of revenue attributable to providing services that would otherwise be covered as professional services under Part B received by each qualifying MA EP for enrollees in MA plans of the MA organization in the payment year.

(3) CMS calculates the incentive amount for the MA organization for each qualifying MA EP as an amount equal to 75 percent of the reported annual revenue specified in paragraph (b)(2) of this section, up to the maximum amounts specified under section 1848(o)(1)(B) of the Act.

(4) For qualifying MA EPs who are compensated on a salaried basis, CMS requires the qualifying MA organization to develop a methodology for estimating the portion of each qualifying MA EP’s salary attributable to providing services that would otherwise be covered as professional services under Part B to MA plan enrollees of the MA organization in the payment year. The methodology—

(i) Must be approved by CMS; and

(ii) May include an additional amount related to overhead, where appropriate, estimated to account for the MA-enrollee related Part B practice costs of the salaried qualifying MA EP.

(iii) Methodological proposals must be submitted to CMS by June of the payment year and must be auditable by an independent third-party. CMS will review and approve or disapprove such proposals in a timely manner.

(5) For qualifying MA EPs who are not salaried, qualifying MA organizations may obtain attestations from such qualifying MA EPs (or from entities that the MA EPs are employed by or with which they have a partnership interest) as to the amount of compensation received by such EPs for MA plan enrollees of the MA organization. The organizations may submit to CMS compensation information for each such MA EP based on such attestations.

(6) For qualifying MA EPs who are not salaried, qualified MA organizations may have qualifying MA EPs (or from entities that the MA EPs are employed by or with which they have a partnership interest) send MA organization compensation information directly to CMS. CMS will use the information provided in this subparagraph or paragraph (b)(5) of this section for no other purpose than to compute the
amount of EHR incentive payment due the MA organization.

(c) Amount payable to qualifying MA organization for qualifying MA-affiliated eligible hospitals. (1)(i) CMS substitutes an amount determined to be equivalent to the amount computed under §495.104, to the extent data are not available to compute payments for qualifying MA-affiliated eligible hospitals under the Medicare FFS EHR hospital incentive program.

(ii) CMS uses the same methodology and defines “inpatient-bed-days” and other terms as used under the Medicare FFS EHR hospital incentive program in §495.104 of this part in computing amounts due qualifying MA organizations for MA-affiliated eligible hospitals.

(2) To the extent data are available, qualifying MA organizations must receive hospital incentive payments through their affiliated hospitals under the Medicare FFS EHR hospital incentive program, rather than through the MA EHR hospital incentive program.

(d) Payment to qualifying MA organizations. CMS makes payment to qualifying MA organizations for qualifying MA EPs only under the MA EHR incentive program and not under the Medicare FFS EHR incentive program to the extent an EP has earned less than the maximum incentive payment for the same period under the Medicare FFS EHR incentive program.

(e) Payment review under MA. To ensure the accuracy of the incentive payments, CMS conducts selected compliance reviews of qualifying MA organizations to ensure that EPs and eligible hospitals for which such qualifying organizations received incentive payments were meaningful EHR users in accordance with §422.504 of this chapter.

(1) The reviews include validation of the status of the organization as a qualifying MA organization, verification of meaningful use and review of data used to calculate incentive payments.

(2) MA organizations are required to maintain evidence of their qualification to receive incentive payments and the data necessary to accurately calculate incentive payments.

(3) Documents and records must be maintained for 6 years from the date such payments are made with respect to a given payment year.

(4) Payments that result from incorrect or fraudulent attestations, cost data, or any other submission required to establish eligibility or to qualify for such payment, will be recouped by CMS from the MA organization.

Effective Date Note: At 77 FR 54158, Sept. 4, 2012, §495.204 was amended by revising the section heading; revising paragraphs (b)(2) and (b)(4) introductory text, and (b)(4)(i) and (ii); redesignating paragraph (f) as paragraph (f); adding new paragraphs (e), (f)(5), and (g), effective Nov. 5, 2012. For the convenience of the user, the added and revised text is set forth as follows:

§ 495.204 Incentive payments to qualifying MA organizations for qualifying MA–EP’s and qualifying MA-affiliated eligible hospitals.

(b) * * * *

(2) The qualifying MA organization must report to CMS within 2 months of the close of the calendar year, the aggregate annual amount of revenue attributable to providing services that would otherwise be covered as professional services under Part B received by each qualifying MA EP for enrollees in MA plans of the MA organization in the payment year.

(4) CMS requires the qualifying MA organization to develop a methodological proposal for estimating the portion of each qualifying MA EP’s salary or revenue attributable to providing services that would otherwise be covered as professional services under Part B to MA plan enrollees of the MA organization in the payment year. The methodological proposal—

(i) Must be approved by CMS; and

(ii) May include an additional amount related to overhead, where appropriate, estimated to account for the MA-enrollee related Part B practice costs of the qualifying MA EP.

(e) Potential increase in incentive payment for furnishing services in a geographic HPSA. In the case of a qualifying MA EP who furnishes more than 50 percent of his or her covered professional services to MA plan enrollees of the qualifying MA organization during a payment year in a geographic HPSA, the maximum amounts referred to in paragraph

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§ 495.206 Timeframe for payment to qualifying MA organizations.

(a) CMS makes payment to qualifying MA organizations for qualifying MA EPs under the MA EHR Incentive program after computing incentive payments due under the Medicare FFS EHR incentive program according to § 495.102.

(b) Payments to qualifying MA organizations for qualifying MA-affiliated eligible hospitals under common corporate governance are made under the Medicare FFS EHR incentive program, following the timeline in specified in § 495.104 of this part. To the extent sufficient data do not exist to pay qualifying MA-affiliated eligible hospitals under common corporate governance under the Medicare FFS EHR incentive program, payment is made under the MA EHR incentive program, following the same timeline in § 495.104 of this part.

§ 495.208 Avoiding duplicate payment.

(a) Unless a qualifying MA EP is entitled to a maximum payment for a year under the Medicare FFS EHR Incentive program, payment for such individual is only made under the MA EHR Incentive program to a qualifying MA organization.

(b) Payment to qualifying MA organizations for a qualifying MA-affiliated eligible hospital under common governance only occurs under the MA EHR incentive program to the extent that sufficient data does not exist to pay such hospital under the Medicare FFS hospital incentive program under § 495.104 of this part. In no event are EHR incentive payments made for a hospital for a payment year under this section to the extent they have been made for the same hospital for the same payment year under § 495.104 of this part.

(c) Each qualifying MA organization must ensure that all potentially qualifying MA EPs are enumerated through the NPI system and that other identifying information required under § 495.207(b) is provided to CMS.

Effective date note: At 77 FR 54159, Sept. 4, 2012, § 495.208 was amended by redesignating paragraphs (a) through (c) as paragraphs (d) through (f); adding new paragraphs (a) through (c), effective Nov. 5, 2012. For the convenience of the user, the added text is set forth as follows:

§ 495.208 Avoiding duplicate payment.

(a) CMS requires a qualifying MA organization that registers MA EPs for the purpose of participating in the MA EHR Incentive Program to notify each of the MA EPs for which it is claiming an incentive payment that the MA organization intends to claim, or has claimed, the MA EP for the current plan year under the MA EHR Incentive Program.

(b) The notice must make clear that the MA EP may still directly receive an EHR incentive payment if the MA EP is entitled to a full incentive payment under the FFS portion of the EHR Incentive Program, or if the MA EP registered to participate under the Medicaid portion of the EHR Incentive Program and is entitled to payment under that program—in both of which cases no payment would be made for the EP under the MA EHR incentive program.

(c) An attestation by the qualifying MA organization that the qualifying MA organization provided notice to its MA EPs in accordance with this section must be required at the time that meaningful use attestations