(4) For MA payment adjustment years prior to 2022, subsection (d) Puerto Rico hospitals are neither potentially qualifying MA-affiliated eligible hospitals nor qualifying MA-affiliated eligible hospitals for purposes of applying the payment adjustments under paragraph (e) of this section.

[77 FR 54159, Sept. 4, 2012, as amended at 83 FR 41711, Aug. 17, 2018]

§ 495.212 Limitation on review.

(a) There is no administrative or judicial review under section 1869 or 1878 of the Act, or otherwise of the methodology and standards for determining payment amounts and payment adjustments under the MA EHR EP incentive program. This includes provisions related to duplication of payment avoidance and rules developed related to the fixed schedule for application of limitation on incentive payments for all qualifying MA EPs related to a specific qualifying MA organization. It also includes the methodology and standards developed for determining qualifying MA EPs and the methodology and standards for determining a meaningful EHR user, including the means of demonstrating meaningful use and the selection of measures.

(b) There is no administrative or judicial review under sections 1869 or 1878 of the Act, or otherwise, of the methodology and standards for determining payment amounts and payment adjustments under the MA EHR hospital incentive program. This includes provisions related to duplication of payment avoidance. It also includes the methodology and standards developed for determining qualifying MA-affiliated eligible hospitals and the methodology and standards for determining a meaningful EHR user, including the means of demonstrating meaningful use and the selection of measures.

Subpart D—Requirements Specific to the Medicaid Program

§ 495.300 Basis and purpose.

This subpart implements section 4201 of the American Reinvestment and Recovery Act of 2009 and sections 1903(a)(3)(F) and 1903(t) of the Act, which authorize States, at their option, to provide for incentive payments to Medicaid providers for adopting, implementing, or upgrading certified EHR technology or for meaningful use of such technology. This subpart also provides enhanced Federal financial participation (FFP) to States to administer these incentive payments.

§ 495.302 Definitions.

As used in this subpart—

Acceptance documents mean written evidence of satisfactory completion of an approved phase of work or contract and acceptance thereof by the State agency.

Acquisition means to acquire health information technology (HIT) equipment or services for the purpose of implementation and administration under this part from commercial sources or from State or local government resources.

Acute care hospital means a health care facility—

(1) Where the average length of patient stay is 25 days or fewer; and

(2) With a CMS certification number (previously known as the Medicare provider number) that has the last four digits in the series 0001–0879 or 1300–1399

Adopt, implement or upgrade means—

(1) Acquire, purchase, or secure access to certified EHR technology capable of meeting meaningful use requirements;

(2) Install or commence utilization of certified EHR technology capable of meeting meaningful use requirements; or

(3) Expand the available functionality of certified EHR technology capable of meeting meaningful use requirements at the practice site, including staffing, maintenance, and training, or upgrade from existing EHR technology to certified EHR technology per the ONC EHR certification criteria.

(4) For payment year 2014, the references to ''certified EHR technology'' in paragraphs (1) through (3) of this definition are deemed to be references to paragraph (2) of the definition of ''Certified EHR Technology'' under 45 CFR 170.102 (that is, the definition of ''Certified EHR Technology'' for FY and CY 2015 and subsequent years).

Children's hospital means a separately certified children's hospital, either freestanding or hospital-within-hospital that—

(1) Has a CMS certification number (CCN), (previously known as the Medicare provider number), that has the last 4 digits in the series 3300–3399; or

(2) Does not have a CCN but has been provided an alternative number by CMS for purposes of enrollment in the Medicaid EHR Incentive Program as a children's hospital and;

(3) Predominantly treats individuals under 21 years of age.

Entities promoting the adoption of certified electronic health record technology means the State-designated entities that are promoting the adoption of certified EHR technology by enabling oversight of the business, operational and legal issues involved in the adoption and implementation of certified EHR technology or by enabling the exchange and use of electronic clinical and administrative data between participating providers, in a secure manner, including maintaining the physical and organizational relationship integral to the adoption of certified EHR technology by eligible providers.

Health information technology planning advance planning document (HIT PAPD) means a plan of action that requests FFP and approval to accomplish the planning necessary for a State agency to determine the need for and plan the acquisition of HIT equipment or services or both and to acquire information necessary to prepare a HIT implementation advanced planning document or request for proposal to implement the State Medicaid HIT plan.

HIT implementation advance planning document (HIT IAPD) means a plan of action that requests FFP and approval to acquire and implement the proposed State Medicaid HIT plan services or equipment or both.

Medicaid information technology architecture (MITA) is both an initiative and a framework. It is a national framework to support improved systems development and health care management for the Medicaid enterprise. It is an initiative to establish national guidelines for technologies and processes that enable improved program administration for the Medicaid enterprise. The MITA initiative includes an architecture framework, models, processes, and planning guidelines for enabling State Medicaid enterprises to meet common objectives with the framework while supporting unique local needs.

Medicaid management information system (MMIS) means a mechanized claims processing and information retrieval system—referred to as Medicaid Management Information Systems (MMIS)—that meets specified requirements and that the Department has found (among other things) is compatible with the claims processing and information retrieval systems used in the administration of the Medicare program. The objectives of the MMIS are to include claims processing and retrieval of utilization and management information necessary for program administration and audit and must coordinate with other mechanized systems and subsystems that perform other functions, such as eligibility determination.

Needy individuals mean individuals that meet one of following:

(1) Received medical assistance from Medicaid or the Children's Health Insurance Program. (or a Medicaid or CHIP demonstration project approved under section 1115 of the Act).

(2) Were furnished uncompensated care by the provider.

(3) Were furnished services at either no cost or reduced cost based on a sliding scale determined by the individuals' ability to pay.

Patient volume means the minimum participation threshold (as described at §495.304(c) through (e)) that is estimated through a numerator and denominator, consistent with the SMHP, and that meets the requirements of §495.306.

Practices predominantly means an EP for whom the clinical location for over 50 percent of his or her total patient encounters over a period of 6 months (within the most recent calendar year or, as an optional State alternative beginning for payment year 2013, within the 12-month period preceding attestation)occurs at a federally qualified health center or rural health clinic.

Service oriented architecture or service component based architecture means organizing and developing information technology capabilities as collaborating services that interact with each other based on open standards.

State Medicaid health information technology plan (SMHP) means a document that describes the State's current and future HIT activities.

State self-assessment means a process that a State uses to review its strategic goals and objectives, measure its current business processes and capabilities against the (MITA) business capabilities and ultimately develops target capabilities to transform its Medicaid enterprise to be consistent with the MITA principles.

[75 FR 44565, July 28, 2010, as amended at 77 FR 54160, Sept. 4, 2012; 79 FR 52933, Sept. 4, 2014]

§ 495.304 Medicaid provider scope and eligibility.

(a) *General rule.* The following Medicaid providers are eligible to participate in the HIT incentives program:

(1) Medicaid EPs.

(2) Acute care hospitals.

(3) Children's hospitals.

(b) *Medicaid EP.* The Medicaid professional eligible for an EHR incentive payment is limited to the following when consistent with the scope of practice regulations, as applicable for each professional (§§ 440.50, 440.60, 440.100; §§ 440.165, and 440.166):

(1) A physician.

(2) A dentist.

(3) A certified nurse-midwife.

(4) A nurse practitioner.

(5) A physician assistant practicing in a Federally qualified health center (FQHC) led by a physician assistant or a rural health clinic (RHC), that is so led by a physician assistant.

(c) *Additional requirements for the Medicaid EP.* To qualify for an EHR incentive payment, a Medicaid EP must, for each year for which the EP seeks an EHR incentive payment, not be hospital-based as defined at § 495.4 of this subpart, and meet one of the following criteria:

(1) Have a minimum 30 percent patient volume attributable to individuals enrolled in a Medicaid program.

(2) Have a minimum 20 percent patient volume attributable to individuals enrolled in a Medicaid program, and be a pediatrician.

(3) Practice predominantly in a FQHC or RHC and have a minimum 30 percent patient volume attributable to needy individuals, as defined at § 495.302.

(d) *Exception.* The hospital-based exclusion in paragraph (c) of this section does not apply to the Medicaid-EP qualifying based on practicing predominantly at a FQHC or RHC.

(e) *Additional requirement for the eligible hospital.* To be eligible for an EHR incentive payment for each year for which the eligible hospital seeks an EHR incentive payment, the eligible hospital must meet the following criteria:

(1) An acute care hospital must have at least a 10 percent Medicaid patient volume for each year for which the hospital seeks an EHR incentive payment.

(2) A children's hospital is exempt from meeting a patient volume threshold.

(f) *Further patient volume requirements for the Medicaid EP.* For payment year 2013 and all subsequent payment years, at least one clinical location used in the calculation of patient volume must have Certified EHR Technology—

(1) During the payment year for which the EP attests to having adopted, implemented or upgraded Certified EHR Technology (for the first payment year); or

(2) During the payment year for which the EP attests it is a meaningful EHR user.

[75 FR 44565, July 28, 2010, as amended at 77 FR 54160, Sept. 4, 2012]

§ 495.306 Establishing patient volume.

(a) *General rule.* A Medicaid provider must annually meet patient volume requirements of § 495.304, as these requirements are established through the State's SMHP in accordance with the remainder of this section.

(b) *State option(s) through SMHP.* (1) A State must submit through the SMHP the option or options it has selected for measuring patient volume.

(2)(i) A State must select the method described in either paragraph (c) or