

110TH CONGRESS
2D SESSION

H. R. 7191

To amend title XIX of the Social Security Act to encourage the use of certified health information technology by providers in the Medicaid and SCHIP programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2008

Ms. SCHWARTZ introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to encourage the use of certified health information technology by providers in the Medicaid and SCHIP programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “E–Centives Act of
5 2008”.

1 **SEC. 2. INCREASED MATCHING PAYMENTS UNDER MED-**
2 **ICAID FOR HEALTH INFORMATION TECH-**
3 **NOLOGY.**

4 Section 1903 of the Social Security Act (42 U.S.C.
5 1396b) is amended—

6 (1) in subsection (a)(3)(E), by inserting “(other
7 than costs attributable to programs described in sub-
8 section (bb))” after “costs incurred during such
9 quarter”; and

10 (2) by adding at the end the following new sub-
11 sections:

12 “(aa) **ENHANCED PAYMENTS FOR CERTIFIED**
13 **HEALTH INFORMATION TECHNOLOGY INCENTIVES.—**

14 “(1) **IN GENERAL.—**The Secretary shall provide
15 for payments to each State that provides incentive
16 payments to physicians, hospitals, and community
17 health centers that exhibit meaningful use of health
18 information technology certified under this sub-
19 section, as determined by the measures for meaning-
20 ful use of health information technology under para-
21 graph (5). No payment may be made to a State for
22 incentive payments made by a State for meaningful
23 use of health information technology that occurs be-
24 fore January 1, 2012.

25 “(2) **APPLICATION.—**To qualify for payments
26 under paragraph (1), a State shall submit an appli-

1 cation in a time and manner specified by the Sec-
2 retary and containing the following:

3 “(A) A description of the incentive pay-
4 ments.

5 “(B) A description of the method the State
6 will use to allocate such incentive payments
7 among physicians, hospitals, and community
8 health centers, including how the State will
9 prioritize payments to providers serving a high
10 percentage of Medicaid, SCHIP, and uninsured
11 patients.

12 “(C) A time line for implementing such
13 payment incentives.

14 “(D) A plan for disseminating information
15 to physicians, hospitals, and community health
16 centers about the availability of such payment
17 incentives.

18 “(E) An assessment of the current level of
19 use of health information technology by physi-
20 cians, hospitals, and community health centers
21 in the State, using a standard assessment form
22 developed by the Secretary.

23 “(F) Any other information required by
24 the Secretary.

25 “(3) AMOUNT OF PAYMENTS TO STATES.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the payments made to States under
3 this subsection shall be in an amount equal to
4 the enhanced FMAP (as defined in section
5 2105(b)) of sums expended during any quarter
6 commencing on or after January 1, 2012, as
7 are attributable to providing incentive payments
8 under paragraph (1).

9 “(B) LIMITATION.—

10 “(i) FISCAL YEAR LIMITATION.—The
11 total amount of payments made under this
12 subsection shall not exceed \$500,000,000
13 for any fiscal year.

14 “(ii) ALLOCATION.—If the amounts
15 otherwise payable under this subsection for
16 a fiscal year exceed the amount specified in
17 clause (i), the Secretary shall reduce the
18 amounts payable under this subsection, in
19 a manner specified by the Secretary, to
20 comply with the limitation under such
21 clause.

22 “(iii) DUPLICATIVE PAYMENTS PRO-
23 HIBITED.—No payment shall be made
24 under any other provision of this title for

1 expenditures for which payment is made
2 under this subsection.

3 “(C) MANNER OF PAYMENT.—Payment to
4 a State under this subsection shall be made in
5 the same manner as payments under subsection
6 (a).

7 “(4) CERTIFICATION REQUIREMENTS FOR
8 HEALTH INFORMATION TECHNOLOGY.—

9 “(A) IN GENERAL.—The Secretary, in con-
10 sultation with the Office of the National Coor-
11 dinator of Health Information Technology and
12 the Certification Commission of Health Infor-
13 mation Technology, shall determine the require-
14 ments for certification of health information
15 technology under this subsection.

16 “(B) INTERIM CERTIFICATION REQUIRE-
17 MENTS.—During any period in which the Sec-
18 retary has not determined such certification re-
19 quirements, the Secretary, for purposes of this
20 subsection, shall use the certification require-
21 ments for health information technology estab-
22 lished by the Certification Commission for
23 Health Information Technology.

24 “(5) MEASURES FOR MEANINGFUL USE OF
25 HEALTH INFORMATION TECHNOLOGY.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the Secretary shall publish standard
3 measures of meaningful use of health informa-
4 tion technology to be used by providers to dem-
5 onstrate meaningful use of certified health in-
6 formation technology. Such measures may in-
7 clude—

8 “(i) self-certification of operational
9 use of such technology;

10 “(ii) the submission of (or ability to
11 submit), in a form and manner specified
12 by the Secretary, such information on clin-
13 ical measures and data (that do not in-
14 clude individually identifiable health infor-
15 mation) from such technology as indicates
16 a meaningful utilization of such tech-
17 nology; and

18 “(iii) such other means as the Sec-
19 retary may specify.

20 “(B) ALTERNATIVE MEASURES.—The Sec-
21 retary may establish and apply different meas-
22 ures based on the stage of implementation or
23 adoption of the certified health information
24 technology involved.

1 “(bb) PAYMENTS FOR ELECTRONIC INFORMATION
2 AND ELIGIBILITY SYSTEMS AND PATIENT REGISTRIES.—

3 “(1) IN GENERAL.—In addition to the pay-
4 ments provided under subsection (a), the Secretary
5 shall provide for payments to each State that estab-
6 lishes a program to—

7 “(A) design, develop, install, maintain, and
8 operate—

9 “(i) electronic information and eligi-
10 bility systems; and

11 “(ii) patient registries for the purpose
12 of disease screening; and

13 “(B) train providers in the use of such sys-
14 tems and registries.

15 “(2) APPLICATION.—To qualify for payments
16 under paragraph (1), a State shall submit an appli-
17 cation in such time and manner as required by the
18 Secretary and containing such information as the
19 Secretary specifies and include, at a minimum, a de-
20 scription of the electronic information and eligibility
21 systems and patient registries covered by the pro-
22 gram described in paragraph (1).

23 “(3) AMOUNT OF PAYMENTS TO STATES.—

1 “(A) IN GENERAL.—The payments made a
2 State under this subsection shall be an amount
3 equal to—

4 “(i) 90 percent of so much of the
5 sums expended by such State during any
6 quarter commencing on or after January
7 1, 2009, as are attributable to—

8 “(I) the design, development, or
9 installation of electronic information
10 and eligibility systems and patient
11 registries under paragraph (1); and

12 “(II) training staff employed by
13 providers on the use of such system or
14 registry during the three-year period
15 beginning on the date such system or
16 registry is installed; and

17 “(ii) 75 percent of so much of the
18 sums expended by such State during any
19 quarter commencing on or after January
20 1, 2009, as are attributable to—

21 “(I) the maintenance of such sys-
22 tems and registries; and

23 “(II) training for staff employed
24 by providers on the use of a system or
25 registry that occurs after the last day

1 of the end of the period described in
2 clause (i)(II).

3 “(B) MANNER OF PAYMENT.—Payment to
4 a State under this subsection shall be made in
5 the same manner as payments under subsection
6 (a).

7 “(4) ELECTRONIC ELIGIBILITY AND INFORMA-
8 TION SYSTEM DEFINED.—For purposes of this sub-
9 section, the term ‘electronic eligibility and informa-
10 tion system’ means a system for determining eligi-
11 bility and exchanging information that meets such
12 requirements as the Secretary shall specify. Such re-
13 quirements for a system shall include a requirement
14 that the system—

15 “(A) be interconnected and interoperable
16 with other electronic systems and registries, in-
17 cluding—

18 “(i) systems administered by the Cen-
19 ters for Disease Control for disease report-
20 ing purposes;

21 “(ii) systems that exist for the pur-
22 pose of determining eligibility for the Medi-
23 care program under title XVIII; and

24 “(iii) systems that exist for the pur-
25 pose of determining eligibility for the Tem-

1 porary Assistance for Needy Families pro-
2 gram under title IV, free and reduced price
3 lunches under the Richard B. Russell Na-
4 tional School Lunch Act (42 U.S.C. 1751
5 et seq.), or other federally funded pro-
6 grams targeted to low-income populations;
7 and

8 “(B) can be used to automatically send, re-
9 ceive, and integrate data (including laboratory
10 results and medical histories) from systems and
11 registries administered by other providers or or-
12 ganizations or through a health information ex-
13 change.”.

14 **SEC. 3. MEDICAID TRANSFORMATION PAYMENTS REPORT.**

15 (a) IN GENERAL.—Not later than June 30, 2009, the
16 Secretary of Health and Human Services shall submit to
17 Congress a report on Medicaid transformation payments
18 under section 1903(z) of the Social Security Act (42
19 U.S.C. 1396b(z)).

20 (b) CONTENTS.—The report under subsection (a)
21 shall include—

22 (1) a description—

23 (A) of the financial costs and benefits of
24 the Medicaid transformation payments;

1 (B) of the entities to which such costs and
2 benefits accrue; and

3 (C) of any reduction in duplicative or un-
4 necessary care resulting from methods adopted
5 by States and funded by such payments; and

6 (2) an analysis of the information contained in
7 the reports submitted to the Secretary by States
8 under section 1903(z)(3)(C) of the Social Security
9 Act during the two-year period ending on December
10 31, 2008, including—

11 (A) the impact of the methods funded by
12 the payments on—

13 (i) health care quality and safety; and

14 (ii) the privacy and security of identi-
15 fiable health information;

16 (B) the effect of such methods on fur-
17 thering interconnectedness between—

18 (i) providers and State Medicaid pro-
19 grams; and

20 (ii) State Medicaid programs and
21 other programs for low-income populations
22 administered by State and Federal entities;

23 (C) the extent to which such methods re-
24 duce the administrative burden on such pro-
25 grams; and

1 (D) the contribution of the payments to
2 the goals of public health and public health re-
3 porting.

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