

(ii) The State publishes and makes available to all EPs a voluntary mechanism for reassigning annual payments and includes information about the verification mechanism the State will use to ensure that the reassignment is voluntary and that no more than 5 percent of the annual payment is retained by the entity for costs not related to certified EHR technology.

(2) [Reserved]

**§ 495.312 Process for payments.**

(a) *General rule.* States must have a process for making payments consistent with the requirements in subparts A and D of this part.

(b) *Reporting data consistent with this subpart.* In order to receive a payment under this part, a provider must report the required data under subpart A and this subpart within the EHR reporting period described in § 495.4.

(c) *State role.* The State determines the provider's eligibility for the EHR incentive payment under subpart A and this subpart and approves, processes, and makes timely payments using a process approved by CMS.

(d) *State disbursement.* The State disburses an incentive payment to the provider based on the criteria described in subpart A and this subpart.

(e) *Timeframes.* Payments are disbursed consistent with the following timeframes for each type of Medicaid eligible provider:

(1) *Medicaid EPs.* States disburse payments consistent with the calendar year on a rolling basis following verification of eligibility for the payment year.

(2) *Medicaid eligible hospitals.* States disburse payments consistent with the Federal fiscal year on a rolling basis following verification of eligibility for the payment year.

**§ 495.314 Activities required to receive an incentive payment.**

(a) *First payment year.* (1) In the first payment year, to receive an incentive payment, the Medicaid EP or eligible hospital must meet one of the following:

(i) Demonstrate that during the payment year, it has adopted, implemented, or upgraded certified EHR technology, as defined in § 495.302.

(ii) Demonstrate that during the EHR reporting period for a payment year, it is a meaningful EHR user as defined in § 495.4.

(2) A provider may notify the State of its non-binding intention to participate in the incentives program prior to having fulfilled all of the eligibility criteria.

(b) *Subsequent payment years.* (1) In the second, third, fourth, fifth, and sixth payment years, to receive an incentive payment, the Medicaid EP or eligible hospital must demonstrate that during the EHR reporting period for the applicable payment year, it is a meaningful EHR user, as defined in § 495.4.

(2) The automated reporting of the clinical quality measures will be accomplished using certified EHR technology interoperable with the system designated by the State to receive the data.

**§ 495.316 State monitoring and reporting regarding activities required to receive an incentive payment.**

(a) Subject to § 495.332 the State is responsible for tracking and verifying the activities necessary for a Medicaid EP or eligible hospital to receive an incentive payment for each payment year, as described in § 495.314.

(b) Subject to § 495.332, the State must submit a State Medicaid HIT Plan to CMS that includes—

(1) A detailed plan for monitoring, verifying and periodic auditing of the requirements for receiving incentive payments, as described in § 495.314; and

(2) A description of the how the State will collect and report on provider meaningful use of certified EHR technology.

(c) Subject to § 495.332 and § 495.352 the State is required to submit to CMS annual reports on the following:

(1) Provider adoption, implementation, or upgrade of certified EHR technology activities and payments; and

(2) Aggregated, de-identified meaningful use data.

(d)(1) The annual report described in paragraph (c) of this section must include, but is not limited to the following:

(i) The number, type, and practice location(s) of providers who qualified for

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an incentive payment on the basis of having adopted, implemented, or upgraded certified EHR technology.

(ii) Aggregated data tables representing the provider adoption, implementation, or upgrade of certified EHR technology.

(iii) The number, type, and practice location(s) of providers who qualified for an incentive payment on the basis of demonstrating that they are meaningful users of certified EHR technology;

(iv) Aggregated data tables representing the provider's clinical quality measures data; and

(v) A description and quantitative data on how its incentive payment program addressed individuals with unique needs such as children.

(2) Subject to § 495.332, the State may propose a revised definition of meaningful use of certified EHR technology, subject to CMS prior approval, but only with respect to the following objectives:

(i) Generate lists of patients by specific conditions to use for quality improvement, reduction of disparities, research or outreach.

(ii) Capability to submit electronic data to immunization registries or immunization information systems and actual submission in accordance with applicable law and practice.

(iii) Capability to provide electronic submission of reportable (as required by State or local law) lab results to public health agencies and actual submission in accordance with applicable law and practice; and

(iv) Capability to provide electronic syndromic surveillance data to public health agencies and actual transmission in accordance with applicable law and practice.

(e) State failure to submit the required reports to CMS may result in discontinued or disallowed funding.

**§ 495.318 State responsibilities for receiving FFP.**

In order to be provided FFP under section 1903(a)(3)(F) of the Act, a State must demonstrate to the satisfaction of HHS, that the State is—

(a) Using the funds provided for the purposes of administering incentive payments to providers under this pro-

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gram, including tracking of meaningful use by Medicaid providers of EHR technology;

(b) Conducting adequate oversight of the program, including routine tracking of meaningful use attestations and reporting mechanisms; and

(c) Is pursuing initiatives to encourage the adoption of certified EHR technology to promote health care quality and the exchange of health care information, subject to applicable laws and regulations governing such exchange.

**§ 495.320 FFP for payments to Medicaid providers.**

Subject to the requirements outlined in this subpart, FFP is available at 100 percent of State expenditures for payments to Medicaid eligible providers to encourage the adoption and meaningful use of certified EHR technology.

**§ 495.322 FFP for reasonable administrative expenses.**

Subject to prior approval conditions at § 495.324 of this subpart, FFP is available at 90 percent in State expenditures for administrative activities in support of implementing incentive payments to Medicaid eligible providers.

**§ 495.324 Prior approval conditions.**

(a) A State must obtain prior written approval as specified in paragraph (b) of this section, when the State plans to initiate planning and implementation activities in support of Medicaid provider incentive payments encouraging the adoption and meaningful use of certified EHR technology with proposed Federal financial participation.

(b) To receive 90 percent match, each State must receive prior approval for all of the following:

(1) The HIT advance planning document and the implementation advance planning document.

(2) A request for proposal and any contract that a State may utilize to complete activities under this subpart, unless specifically exempted by the Department of Health and Human Services, prior to release of the request for proposal or prior to execution of a contract.

(3) For contract amendments, unless specifically exempted by HHS, before execution of the contract amendment,