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Incentive Payments Available to Successful Electronic Prescribers

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In this Issue

First Circuit Adopts CMS' Interpretation of IME Regulation to Exclude Research Time

Stock Transactions – Advance Notice and Approval?

Incentive Payments Available to Successful Electronic Prescribers

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Beginning January 1, 2009, physicians and other professionals may begin qualifying for incentive payments for the use of electronic prescription systems. On December 1, 2008 CMS released its specifications for the E-Prescribing Incentive Program. These specifications will be used to determine whether a prescriber is a "successful electronic prescriber" (SEP) who may qualify for a 2% incentive payment for the 2009 reporting period (the 2009 calendar year). Payments will be made following the close of the reporting period and will be calculated based on an estimate of the allowed charges for all of an eligible professional's covered services provided during the year. Following 2009, incentives will decrease each year until, in 2012, CMS plans to impose a gradually increasing penalty on eligible professionals who are not qualified as SEPs.

An SEP must:

1. Be an eligible professional. CMS has provided a wide range of professionals who may be eligible, including, among others, physicians, physical or occupational therapists, physician assistants, nurse practitioners, clinical nurse specialists, social workers, psychologists, registered dietitians and others;
2. Use a "qualified" e-prescribing system. CMS has not specified specific systems that must be used, but any system used must be able to:
 - Generate a complete medication list that incorporates available data from pharmacies and benefit managers;
 - Select medications, transmit prescriptions electronically¹ using the applicable e-prescribing standards², and warn the prescriber of possible undesirable or unsafe situations;
 - Provide information on lower-cost, therapeutically-appropriate alternatives (for 2009, tiered formulary information, if available, meets this requirement);
 - Provide information on formulary or tiered formulary

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medications, patient eligibility, and authorization requirements received electronically from the patient's drug plan; and

3. Appropriately report e-prescribing quality measures. Providers "report" e-prescribing quality measures through a two step process:

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- Bill on one of the listed CMS denominator codes;³
- Report one of the three G-codes provided by CMS to indicate e-prescribing (G8443, G8445, or G8446) on more than 50% of applicable cases under the provided denominator codes.

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Importantly, eligible professionals need not necessarily begin using an electronic prescribing system on January 1. Since the qualifications require only that reports be made for more than 50% of the applicable cases, many professionals will be able to qualify even though they begin later in the year. Eligible professionals, however, may only receive the incentive in 2009 if their estimated allowed Medicare Part B charges for the e-prescribing denominator codes are at least 10% of their total Medicare Part B allowed charges. This requirement may limit some "eligible professionals" from participating in the program. Interestingly, CMS has not explained whether this limitation will also prevent CMS from penalizing these providers in 2012, when the current incentive for participation becomes a penalty for non-participation.

Ober|Kaler's Comments: There can be little doubt that e-prescribing will soon be a dominant means of prescription transmission. Providers who act in the next few years will be able to take advantage of donation and incentive programs and safe harbors and exceptions from fraud and abuse laws. CMS's intention to transform this incentive into a penalty by 2012 should serve as a warning to providers who have been hesitant to investigate opportunities to apply the emerging technologies – the window for voluntary compliance (and its attendant rewards) is finite. Physicians interested in additional information should visit: www.ehealthinitiative.org/eRx/ and review the "Clinician's Guide to Electronic Prescribing." They can also investigate CMS's policies first hand by visiting: www.cms.hhs.gov/PQRI/03_EPrescribingIncentiveProgram.asp

Notes

¹ Prescriptions must be sent electronically, but CMS will consider prescriptions as being sent electronically where the system converts an electronic prescription into a fax for transmission to a pharmacy that is unable to receive electronic prescriptions or electronic faxes.

² The latest e-prescribing standards applicable to Part D prescribing were issued April 7, 2008. Effective April 1, 2009, these standards will be applicable to the E-prescribing Incentive Program.

³ There is an extensive list of applicable codes. They, as well as more detailed information regarding the initiative, can be found at: <http://www.cms.hhs.gov/partnerships/downloads/11399.pdf>.