

# Health IT Incentives

## Academy Calls for PA Eligibility

**T**HE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, also known as the stimulus package, allocated \$19 billion to promote the adoption of health IT, particularly electronic health records. Some of that money will go toward incentivizing clinicians and hospitals to adopt and use EHRs through the Medicare and Medicaid incentive programs.

### Defining Meaningful Use

On Dec. 30, 2009, the Centers for Medicare and Medicaid Services announced a proposed regulation that would specify how providers and hospitals can demonstrate “meaningful use” of certified EHR technology, a requirement for receiving those incentives. Under the proposed rule, the definition of meaningful use would depend on who is receiving the incentive. The rule proposes one definition of meaningful use for eligible professionals participating in the Medicare fee-for-service and the Medicare Advantage EHR incentive programs and another definition for eligible hospitals and critical access hospitals. Those definitions would also serve as the minimum standard for providers and hospitals participating in the Medicaid EHR incentive program.

CMS accepted public comment on the proposed rule until March 15. During that time, AAPA sent a letter to CMS highlighting areas of the rule in which PAs were omitted or limited in their eligibility as providers. Specifically, the letter addressed the fact that PAs were not included as eligible professionals in the Medicare incentive program. However, according to Amy Fehn, a partner with the health law firm of Wachler & Associates, PC, CMS noted in a Feb. 23 webinar that the list of eligible professionals is defined by statute and is not subject to rulemaking authority.

The letter called for CMS to broaden the level of recognition of PAs under the Medicaid incentive program. The proposed rule limits incentives to PA-led clinics in federally qualified health centers or rural health clinics. The letter also asks for CMS to clarify the definition of a PA-led rural health clinic and requests changes in the rules for calculating patient volume threshold.

Under the proposed rule, eligible profession-



als would adopt meaningful use of health IT in stages, beginning in 2011. In Feb. 2010, the Health and Human Services Health IT Policy Committee recommended that the government relax some of the 2011 requirements for meaningful use. The group advised that providers and hospitals should be able to defer adopting up to five of the proposed measures from 2011 to 2013, while still meeting some mandatory objectives. Under the recommendation, up to six measures, including e-prescribing and providing patients with electronic health records, would remain as 2011 requirements. Privacy and security standards would not be deferred.

The committee also urged CMS to reinstate some of the group’s original recommendations and to revise a number of measures defining meaningful use. “Because the Office of the National Coordinator has a statutory responsibility to ensure that the Health IT Policy Committee’s comments are taken into consideration and because the concern regarding the ‘all or nothing’ approach echoes the comments of many strong

industry lobby groups, such as the American Hospital Association, it is likely that there will be some relaxation of the meaningful use criteria in the final rule,” said Fehn. CMS will publish the final meaningful use rule in late spring.

### Certifying Health IT

In order to receive payments through the Medicare and Medicaid incentives program, eligible professionals and hospitals must utilize certified EHR technology. On Dec. 30, 2009, the Office of the National Coordinator for Health Information Technology issued an interim final regulation that sets initial standards, implementation specifications and certification criteria for EHR technology. ONC accepted public comment on the proposed regulation until March 15.

During that period, the Academy sent a letter to ONC emphasizing the need for PAs to have full access to qualified EHRs and key health information systems. The letter asks that standards, implementation specification and certification criteria for EHR technology that pertain to physicians—such as e-prescribing, computerized provider order entry and patient communication tools—also be available to PAs working in ambulatory and hospital settings.

**To submit comments on the permanent certification program, go to [www.regulations.gov/](http://www.regulations.gov/) and search RIN 0991-AB59.**

On March 2, ONC issued a Notice of Proposed Rulemaking that would establish a temporary certification program allowing organizations to test and certify EHRs so that certified technology is available to providers and hospitals that begin adopting health IT in 2011. The rule also calls for a permanent certification program that would take effect when at least one certification body has been authorized by the national coordinator. There will be a 30-day public comment period for the temporary program and a 60-day comment period for the permanent program. ONC is expected to issue separate final rules for each.

**PA**