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**IDAPA 16
TITLE 03
CHAPTER 25**

16.03.25 – IDAHO MEDICAID ELECTRONIC HEALTH RECORD (EHR) INCENTIVE PROGRAM

000. LEGAL AUTHORITY.

01. Rulemaking Authority. Under Sections 56-202, 56-203, and 56-1054, Idaho Code, the Idaho Department of Health and Welfare has the authority to adopt rules regarding the Idaho Medicaid Electronic Health Record (EHR) Incentive Program. (4-4-13)

02. General Administrative Authority. The American Reinvestment and Recovery Act of 2009 (ARRA), Section 4201, and 42 CFR Part 495, provide the basic authority for administration of this federal program. (4-4-13)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.25, “Idaho Medicaid Electronic Health Record (EHR) Incentive Program.” (4-4-13)

02. Scope. These rules: (4-4-13)

a. Establish the Medicaid Electronic Health Record (EHR) Incentive Program for Idaho covered under 42 CFR Part 495. (4-4-13)

b. Provide the Medicaid EHR Incentive Program criteria for participation of qualified eligible professionals and hospitals that adopt, implement, or upgrade to become meaningful users of certified electronic health record systems in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), Section 4201. (4-4-13)

c. Provide for the audit of providers receiving incentive payments. (4-4-13)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection at the location identified under Subsection 005.06 of these rules and in accordance with Section 006 of these rules. (4-4-13)

003. ADMINISTRATIVE APPEALS.

All contested cases are governed by the provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” (4-4-13)

004. INCORPORATION BY REFERENCE.

The Department has incorporated by reference 42 CFR Part 495, “Medicare and Medicaid Programs,” revised October 1, 2011. A hardcopy is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations website at: <http://www.gpo.gov/fdsys/pkg/CFR-2011-title42-vol5/pdf/CFR-2011-title42-vol5.pdf>. (4-4-13)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – TELEPHONE NUMBER – INTERNET WEBSITE.

01. Office Hours. 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (4-4-13)

02. Mailing Address. P.O. Box 83720, Boise, Idaho 83720-0036. (4-4-13)

03. Street Address. 450 West State Street, Boise, Idaho 83702. (4-4-13)

- 04. Telephone.** (208) 334-5500. (4-4-13)
- 05. Internet Website.** <http://www.healthandwelfare.idaho.gov>. (4-4-13)
- 06. Division of Medicaid.** The Department’s Division of Medicaid is located at 3232 Elder Street, Boise, ID 83705; Phone: (208) 334-5747. (4-4-13)
- 006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT REQUESTS.**
- 01. Confidentiality of Records.** Any information about an individual covered by these rules and contained in the Department’s records must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records.” (4-4-13)
- 02. Public Records Act.** The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (4-4-13)
- 007. -- 009. (RESERVED)**
- 010. DEFINITIONS AND ABBREVIATIONS.**
For the purposes of this chapter of rules the following terms apply: (4-4-13)
- 01. Acute Care Hospital.** A health care facility, including a critical access hospital, with a CMS Certification Number that ends in 0001-0879 or 1300-1399. An acute care hospital: (4-4-13)
- a.** Must have ten percent (10%) Medicaid patient discharges; (4-4-13)
- b.** Is a primary health care facility where the average length of patient stay is twenty-five (25) days or fewer. (4-4-13)
- 02. Adopt, Implement, or Upgrade (AIU).** (4-4-13)
- a.** Acquire, purchase, or secure access to certified EHR technology; (4-4-13)
- b.** Install or commence utilization of certified EHR technology capable of meeting meaningful use requirements; or (4-4-13)
- c.** 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. (4-4-13)
- 03. Attestation.** Signature as a witness by each professional or hospital who applies to the EHR program signifying the information they have provided is true and genuine and affirms that they meet the EHR incentive payment eligibility criteria. (4-4-13)
- 04. Border States.** The border states for Idaho are: Washington, Oregon, Nevada, Utah, Wyoming, and Montana. (4-4-13)
- 05. Certified EHR Technology.** As defined in 42 CFR Section 495.4 (2010) and 45 CFR Section 170.102 (2010 and 2011), in accordance with the Office of the National Coordinator for Health Information Technology EHR certification criteria. (4-4-13)
- 06. Children’s Hospital.** As referenced in 42 CFR Section 495.302, a separately certified hospital, either freestanding or hospital-within-hospital, that has a CMS Certification Number that ends in 3300–3399 and predominantly treats individuals under twenty-one (21) years of age. (4-4-13)
- 07. CMS.** Centers for Medicare and Medicaid Services. (4-4-13)

- 08. Critical Access Hospital (CAH).** A small, generally geographically remote facility that provides outpatient and inpatient hospital services to people in rural areas. The designation was established by law, for special payments under the Medicare program. A critical access hospital: (4-4-13)
- a.** Is located in a rural area and provides 24-hour emergency services; (4-4-13)
 - b.** Has an average length-of-stay for its patients of ninety-six (96) hours or less; (4-4-13)
 - c.** Is located more than thirty-five (35) miles (or more than fifteen (15) miles in areas with mountainous terrain) from the nearest hospital or is designated by the State as a “necessary provider”; and (4-4-13)
 - d.** Has no more than twenty-five (25) beds. (4-4-13)
- 09. CY.** Calendar Year. (4-4-13)
- 10. Dentist.** A person who meets all the applicable requirements to practice as a licensed dentist under IDAPA 19.01.01, “Rules of the Idaho State Board of Dentistry.” (4-4-13)
- 11. Department.** The Idaho Department of Health and Welfare. (4-4-13)
- 12. EHR.** Electronic Health Record. (4-4-13)
- 13. Eligible Hospital.** An acute care hospital with at least ten percent (10%) Medicaid patient volume or a children’s hospital. (4-4-13)
- 14. Eligible Professional.** A physician, dentist, nurse practitioner (including a nurse-midwife nurse practitioner), or a physician assistant practicing in a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC) that is led by a physician assistant and meets patient volume requirements described in 42 CFR Section 495.306. (4-4-13)
- 15. Eligible Provider.** Eligible hospital or eligible professional. (4-4-13)
- 16. Eligible Provider, Hospital-Based.** In accordance with 42 CFR Section 495.4, an eligible provider who furnishes ninety (90) percent or more of his or her covered professional services in a hospital setting in the CY preceding the payment year. A setting is considered a hospital setting if it is a site of service that would be identified by the codes used in the HIPAA standard transactions as an inpatient hospital, or emergency room setting. (4-4-13)
- 17. Encounter.** (4-4-13)
- a.** For an eligible hospital either may apply: (4-4-13)
 - i.** Services rendered to an individual per inpatient discharge; or (4-4-13)
 - ii.** Services rendered to an individual in an emergency department on any one (1) day; (4-4-13)
 - b.** For an eligible professional, services rendered to an individual on any one (1) day. (4-4-13)
- 18. Enrolled Provider.** A hospital or health care practitioner who is actively registered with the Department’s Idaho Medicaid EHR Incentive Program. (4-4-13)
- 19. Federal Fiscal Year (FFY).** The federal fiscal year is from October 1 to September 30. (4-4-13)
- 20. Federally Qualified Health Center (FQHC).** A federal designation for a medical entity that meets the requirements of 42 U.S.C. Section 1395x(aa)(4). The FQHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. (4-4-13)

21. Hospital-Based. An eligibility criterion that excludes an eligible professional from participating in the Medicaid EHR Incentive Program when an eligible professional furnishes 90 percent (90%) or more of the eligible professional's Medicaid covered services in a hospital emergency room (place of service code 23), or inpatient hospital (place of service code 21) in the CY preceding the payment year. (4-4-13)

22. Meaningful EHR User. An eligible provider that, for an EHR reporting period for a payment year, demonstrates (in accordance with 42 CFR Section 495.8) meaningful use of certified EHR technology by meeting the applicable objectives and associated measures in 42 CFR Section 495.6 and as prescribed by 42 CFR Part 495. (4-4-13)

23. Nurse Practitioner (NP). A licensed registered nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," and as defined in 42 CFR Section 440.166. (4-4-13)

24. Payment Year. (4-4-13)

a. The CY for an eligible professional; or (4-4-13)

b. The FFY for an eligible hospital. (4-4-13)

25. Physician. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a State or United States territory, and who performs services as defined in 42 CFR Section 440.50. (4-4-13)

26. Physician Assistant. A person who meets all the applicable requirements to practice as licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and who performs services as defined in 42 CFR Section 440.60. (4-4-13)

011. -- 099. (RESERVED)

ELIGIBILITY DETERMINATION
(Sections 100 - 399)

100. ELECTRONIC HEALTH RECORD (EHR) INCENTIVE PROGRAM ELIGIBILITY.

01. Providers and Hospitals Eligible to Participate in the EHR Incentive Program. The Department administers the federal EHR Incentive Program that pays incentive payments to eligible providers and eligible hospitals that adopt, implement, upgrade, and meaningfully use certified EHR technology in accordance with the provisions of 42 CFR Part 495. Providers and hospitals eligible to participate in the EHR incentive program are identified in 42 CFR Section 495.304. (4-4-13)

02. Department Reviewing and Auditing of EHR Incentive Program Participants. As authorized by 42 CFR Part 495, the Department reviews and audits all professionals and hospitals participating in the EHR incentive program. The Department reviews all practice, documentation, and data related to the EHR technology to determine whether professionals and hospitals participating in the EHR incentive program are eligible and complying with the state and federal rules and regulations. The Department will be reviewing and auditing the EHR program. EHR program participants must meet the following requirements: (4-4-13)

a. Patient volume thresholds and calculations, as outlined in 42 CFR Sections 495.304 and 495.306. (4-4-13)

b. Eligibility criteria and payment limitations, as outlined in 42 CFR Sections 495.10, 495.304, 495.306, 495.308, and 495.310. (4-4-13)

c. Attestations and compliance demonstrations including, at a minimum: (4-4-13)

- i. Attestations that certified EHR technology has been adopted, implemented, or upgraded; and (4-4-13)
- ii. Demonstrations of meaningful use, as outlined in 42 CFR Sections 495.6 and 495.8. (4-4-13)
- d. The payment process and incentive payment amounts, as outlined in 42 CFR Sections 495.310, 495.312, 495.314, and 495.316. (4-4-13)
- e. Additional issues regarding EHR incentive payments program eligibility, participation, documentation, and compliance as outlined in 42 CFR Part 495. (4-4-13)

101. -- 199. (RESERVED)

200. EHR: FEDERALLY INITIATED PROGRAM.

01. Voluntary Federal Program. The EHR Incentive Program is a federal program, using federal funding, and is voluntary for providers. The Department has no obligation to pay incentive payments to the provider once federal funding is exhausted. (4-4-13)

02. Idaho Sanctions/Outstanding Debt. (4-4-13)

a. To be eligible for incentive payments, providers must be free of both state and federal level sanctions and exclusions as provided in Section 56-209h, Idaho Code, IDAPA 16.05.07, and 42 CFR Part 455. Providers who are on either the Idaho Medicaid Provider Exclusion List (<http://www.healthandwelfare.idaho.gov/Portals/0/Providers/Medicaid/ProviderExclusionList.pdf>) or on the federal List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov/>) are not eligible to participate in the EHR Incentive Program. (4-4-13)

b. The Department will reference the Idaho State Sanctions and the Outstanding Debt-Termination Exclusion Lists. Federal level checks with the Office of the Inspector General (OIG) will be conducted through the Idaho Incentive Management System (IIMS) and CMS interface. (4-4-13)

c. Detection for improper payment will be conducted both at the state program level and at the federal level, as referenced in 42 CFR Sections 495.368(a)(1)(i) & (ii). (4-4-13)

201. -- 299. (RESERVED)

300. EHR: ADDITIONAL PROVIDER QUALIFICATIONS.

01. Out-of-State Professionals and Hospitals. EHR incentive payments will be made only to Idaho Medicaid providers (professionals with an Idaho Medicaid Provider Agreement), unless they predominantly practice in an RHC or FQHC that is an Idaho Medicaid provider. (4-4-13)

02. Patient Volume Calculation. Encounters for out-of-state Medicaid members (Border States only) may be included in the patient volume calculation only if needed to meet patient volume threshold. Out-of-state encounters must then be included in the numerator and the denominator of the patient volume calculation. (4-4-13)

03. Eligible Professionals (EP) Licensure. The Department will consider a provisional license the same as licenses. (4-4-13)

301. -- 399. (RESERVED)

400. STATE OPTIONS ELECTIONS UNDER THE EHR INCENTIVE PROGRAM.

In addition to the federal provisions in the ARRA, Section 4201, the Idaho EHR incentive program is governed by federal regulations at 42 CFR Part 495. In compliance with the requirements of federal law, the Department establishes the following State options under the Idaho EHR incentive program: (4-4-13)

01. Calculating Patient Volume. For purposes of calculating patient volume as required by 42 CFR

Section 495.306, the Department has elected eligible professionals and eligible hospitals to use 42 CFR Section 495.306(c). (4-4-13)

02. Patient Volume Methodology. For eligible professionals who use a group proxy patient volume methodology outlined in 42 CFR Section 495.306(h), the EP must see at least one (1) Medicaid or medically underserved patient before he may apply for a Medicaid EHR incentive payment. (4-4-13)

03. Hospital Fiscal Year. The twelve (12) month period defined by a hospital for financial reporting purposes that will be used to comply with 42 CFR Section 495.310(g)(1)(i)(B). (4-4-13)

04. Determination of Hospital-Based. In accordance with 42 CFR Section 495.4(2)(ii)(B), in order to distinguish “hospital-based eligible professional” from “eligible professional (EP)” during the program year, the Department reviews the quantity and place of services rendered for the CY preceding the program year to which the payment will apply. (4-4-13)

401. -- 999. (RESERVED)

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