Medicaid a Better Payer Than Medicare for EHRs

BY JOYCE FRIEDEN

While Medicare is almost always a better payer than Medicaid, one notable exception is the health information technology funding contained in the Recovery Act.

For physicians applying for incentive money to purchase electronic health record (EHR) systems, "Medicaid is a little better than Medicare because there's more upfront money," Dr. William Jessee, president and CEO of the Medical Group Management Association (MGMA), said during a teleconference on the stimulus bill.

The Recovery Act—formally known as the American Recovery and Reinvestment Act of 2009—includes about $19 billion for spending on health IT, Dr. Jessee said. Physicians can apply for money through either Medicare or Medicaid, but not both. Other clinicians eligible for the Medicare incentive include dentists, podiatrists, optometrists, and chiropractors.

To qualify for the incentive, physicians must be "meaningful electronic health records users" and use electronic prescribing. In addition, the EHR must have the capability of exchanging information with other users, and physicians must report clinical quality measures to the Health and Human Services department, presumably through the Physician Quality Reporting Initiative, Dr. Jessee said.

To be eligible for the Medicaid incentive, at least 30% of a provider's practice base must be Medicaid recipients. Pediatricians have a lower threshold—just 20%, he said.

The states administering the Medicaid portion of the incentive can make payments to Medicaid providers for up to 85% of net average allowable costs, to a maximum of $63,750 over 6 years for a certified EHR. The maximum incentive starts at $25,000 in the first year and then gradually decreases each year.

Under the Medicare incentive, physicians who are using an EHR in 2011 or 2012 can receive an incentive equal to as much as 75% of their Medicare allowable charges per year for the cost of their hardware and software, up to a maximum of $44,000 over a 5-year period. (The maximum allowable benefit per provider is $15,000 in the first year and gradually decreases over the next 4 years.) Physicians practicing in health professional shortage areas can receive a 10% additional payment, he noted.

The incentive also comes with a "stick" attached: Physicians who are not using an EHR by 2015 will see a decrease in their Medicare payments, according to Dr. Jessee.

Also still to be determined is what constitutes a certified EHR. "You need to be very careful to make sure that the product you use or are contemplating investing in will be a certified product that qualifies for an incentive. We suggest putting a [clause] in your contract saying that the vendor will make sure the product you're using will qualify for the incentive," he said.

In addition to the federal EHR incentives, Congress allocated another $2 billion for indirect grants to support HIT, primarily at state and regional levels, he said. "It's an HIT extension service modeled on the agricultural extension service, with the idea that people will need assistance implementing HIT. No one knows who's going to be performing that function, or whether it will be national, state, or local, but a substantial sum of money has been devoted to supporting that extension service."

Although there has been speculation about whether the government was going to come out with a free EHR for providers, "my guess is, don't hold your breath," Dr. Jessee said. "Remember when HHS said it was going to create a 'freeware' version of [the EHR used by the Veterans Affairs department]? They found that it wasn't exactly free, and it didn't lend itself to being transferred from a large mainframe environment to a disseminated environment."

Physicians looking to hospitals for funding of their EHR systems aren't getting any guidance yet on whether the new EHR rules will help or hurt their cause, according to Rob Tennant, senior policy adviser at MGMA. "There's nothing we've seen that prohibits that, but it's a gray area where we'll have to see what the government does in terms of regulation," he said.

The Recovery Act also contains additional health care privacy provisions, according to Dr. Jessee. "If you liked HIPAA, you'll love the privacy provisions" in this bill, he said. For instance, providers are required to have the ability to track every disclosure of personally identifiable health information, including information released for payment purposes. "The patient has a right to request who you've disclosed their information to for 3 years; this is probably going to require a system upgrade" for those who already have an EHR, he said.

If the patient's information has been disclosed because of a breach of privacy, providers must notify the patient or their next of kin within 60 days; if the breach affects more than 500 patients, the local media must be notified along with HHS so that it can be posted on the department's Web site, he added.

The interim regulation spelling out all the EHR requirements is due to be published no later than July of this year. Practices that already have EHRs will have until Jan. 1, 2014, to comply with the new rules; those who buy EHRs from now on will have to comply either by the day they purchase the system or by Jan. 1, 2011, whichever is later, he said.

The teleconference was sponsored by MGMA, MedFusion, Athenahealth Inc., and MicroMD. ■

POLICY & PRACTICE

Bristol-Myers Squibb Fined

Bristol-Myers Squibb Co. will pay $2.1 million—the largest fine allowed by law—for failing to report an agreement it reached with Apotex Inc. on generic competition for its blockbuster cardiovascular drug Plavix (clopidogrel), the Federal Trade Commission said. Bristol-Myers Squibb didn't disclose that in 2006 the two companies made a deal to schedule the releases of their generic versions of the drug to reduce competition, according to the FTC. The agency said that failing to disclose the oral agreement violated both a 2003 FTC order and the Medicare Modernization Act, which requires that certain drug company agreements be accurately reported to both the FTC and the U.S. Department of Justice. In 2007, Bristol-Myers Squibb paid $1 million to settle a criminal complaint that the company had lied about the Plavix agreement with Apotex. The name-brand manufacturer has also settled several state actions arising from the generic-timing agreement, the FTC said.

Massachusetts Clinics Are Busy

Community health centers in Massachusetts saw a significant increase in their patient load from 2005 to 2007, as the state implemented its health reform law, according to a study from the Kaiser Family Foundation. The 34 federally qualified clinics, which provide comprehensive primary care for low-income and uninsured patients, served 482,503 patients in 2007, up more than 51,000 from 2 years earlier, the foundation reported. The state's reform aims at universal coverage, but many people remain uninsured. Although the number of health center patients lacking insurance declined, the clinics in 2007 cared for a much larger proportion (36%) of the state's uninsured population than before. The experience in Massachusetts shows that community health centers play a critical role in caring for newly insured patients while continuing to serve as the primary safety net for those who remain uninsured, the report concluded.

FDA Warns on Internet Ads

The Food and Drug Administration has warned 14 drug makers against using brief Internet ads to promote drugs, saying the ads are misleading because they fail to provide full information about risks and indications. The ads typically appear on search engines, such as Google, as "sponsored links" when patients search for information on medical conditions. The ads cited by the FDA include promotions for the multiple sclerosis drug Tysabri (natalizumab), the cardiovascular drug Plavix (clopidogrel), and the diabetes treatment Avandia (rosiglitazone). The sponsored links generally contain only a dozen or so words—not enough to convey detailed treatment or risk information, according to the FDA. The Pew Prescription Project, a nonprofit drug-safety group, has asked the FDA to articulate the rules regulating online advertising and to advise manufacturers on where risk disclosures may appear in Internet ads.

FDA Seeks Data on Older Devices

The FDA has ordered manufacturers of 25 class III medical devices that were approved before 1976 to submit safety and effectiveness data to the agency by Aug. 7. The devices include an intra-aortic balloon and its control system, a ventricular bypass assist device, generators, materials for pacemakers, automated external defibrillators, and some types of hip joints. The FDA will decide whether to require a full approval application or reclassify the device to a lower-risk regulatory category. The Advanced Medical Technology Association issued a statement saying it was pleased the process is moving forward, but emphasized that "the device types subject to the FDA notice have already been thoroughly reviewed by the agency," based on technological and performance data or, in some cases, clinical data.

Issues of Drug Class Pending

Logistical and cost issues must be addressed before a behind-the-counter class of nonprescription drugs can be established officially in the United States, the Government Accountability Office said in a report on so-called BTC drugs. The GAO stressed that pharmacists must be ready to provide BTC counseling and that pharmacies must protect consumer privacy. Also, policy makers should address cost issues, such as availability of third-party coverage for BTC drugs and pharmacists' compensation for providing associated services. GAO researchers studied the experiences of five countries, including Italy and the Netherlands, that have a behind-the-counter or similarly restricted drug class.

EMR Applications Rise

As of the March 31 deadline, 64 companies had applied for certification of their electronic medical record (EMR) products, one-third more than had applied by the same time last year, the Certification Commission for Healthcare Information Technology reported. Nearly 40% of the applications were for new EMR products, rather than renewals, according to the federally recognized commission. Nearly two-thirds of the applicants qualified as small businesses, the commission noted. The biggest category, with 26 applications, was for EMR products for children. Other applications covered cardiovascular medicine, emergency departments, and inpatient records. So far, 25 of the products have been certified, the commission said.

—Jane Anderson