



Health Law Alert

Legal and political developments affecting the health care industry

A publication of Nixon Peabody LLP

JULY 31, 2008

Medicare incentives to physicians for e-prescribing to begin in 2009

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The federal government's most recent effort to encourage e-prescribing can be found in Section 132 of the recently enacted Medicare Improvements for Patients and Providers Act of 2008 (H.R. 6331) (the Act). Although the Bush administration did not support the Act as a whole, President Bush did endorse the e-prescribing provision of the Act. According to HHS Secretary Michael Leavitt, "The widespread adoption of electronic prescribing is expected to save taxpayers as much as \$156 million over the next five years, and save lives." Under the Act, physicians who use qualified e-prescribing methods will receive a 2-percent incentive payment in 2009 and 2010, a 1-percent incentive payment in 2011 and 2012, and a .5-percent incentive payment in 2013. The incentive percentages will be based on the allowed Medicare charges for covered professional services furnished by an eligible practitioner or practice.

Starting in 2012, there will be a financial disincentive for practitioners and practices who do not use qualified e-prescribing systems. In 2012, these practitioners will receive 99 percent of Medicare fee schedule amounts that they would otherwise collect, and in 2013 and thereafter, they will receive 98.5 percent. The Act contains a waiver for practices that Medicare determines would experience significant hardship by becoming successful e-prescribers. The Act cites the example of an eligible professional who practices in a rural area without sufficient Internet access.

With the potential for Medicare incentives and disincentives, it is expected that physicians will begin to implement acceptable e-prescribing measures in their practices. The incentives should help absorb the cost of implementation. However, as American Medical Association Board of Trustees member Steven J. Stack, M.D. said, "...additional government payments alone likely will not provide enough financial support for what can be an expensive undertaking ... Private industry partners need to provide doctors with extra assistance."¹ Kerry Weems, CMS acting administrator, has publicly stated that there are plans for a CMS conference this fall to provide education about the e-prescribing technology and how to use it, including set-up costs, which she estimates will cost \$3,000 per prescriber. The terms of the incentives program will be outlined in Medicare's final rule on the 2009 physician fee schedule, scheduled to be released this fall.

¹ Quoted by Glendinning, David, *E-prescribers see Medicare bonus, but law adopters will face pay cut...*, [amednews.com, http://www.ama-assn.org/amednews/2008/08/04/gv110804.htm](http://www.ama-assn.org/amednews/2008/08/04/gv110804.htm) (last visited July 28, 2008).

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