

Your Healthy Practice

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Countdown is on to apply for incentive program

The Medicare Electronic Health Record Incentive Program is on the launching pad. Whether you choose to jump on board or take a wait-and-see approach depends on your individual circumstances.

Registration for the incentive program began in January. Attestation begins in April 2011, with the first of five annual payments to doctors to be made in May.

For Medicaid providers, incentives will be paid by the states. All states could have begun their programs in January. However, many have chosen to delay their launch dates.

While the incentives may not cover the costs of purchasing and implementing a certified electronic health record (EHR) system, eligible providers who do not meet meaningful use of EHRs by 2015 face reduced Medicare payments under an American Recovery and Reinvestment Act (ARRA) penalty provision. Additionally, some insurers are linking

their pay-for-performance programs to the federal meaningful-use criteria.

For the Medicaid incentive, providers have until 2016 to begin the program and still receive the full bonus of \$63,750 over six years. Other notable differences between the Medicaid and Medicare incentive programs include eligibility and state-imposed requirements.

For more detailed information on the Medicaid incentive program, visit www.cms.gov/ehrincentiveprograms and your state health department.

Physicians choosing to participate in the Medicare incentive program who want to receive the maximum benefit – up to \$44,000 paid out over five years – must initiate participation this year or no later than 2012. The maximum amount of the incentive payment is reduced with each succeeding year, and 2014 is the last year a physician can begin to qualify for the Medicare incentive program.

The amount of the annual payment is tied to charges billed. To receive the \$18,000 available to those starting this year or next, a physician must bill at least \$24,000 in Medicare-allowed charges. All eligible physicians in a practice can apply for the incentive, provided each physician individually meets the meaningful EHR use criteria and billing threshold.

Registration requirements

Those seeking the stimulus money must register on the EHR Incentive Program website at www.cms.gov/ehrincentiveprograms. To register, eligible physicians must:

- ▲ Have a National Provider Identifier
- ▲ Be enrolled in the Internet-based Provider Enrollment, Chain and Ownership System
- ▲ Use certified EHR technology

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A financial and management bulletin to physicians and medical practices from:

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Retirement plan is a crucial part of tax planning

Probably the most significant tax planning tool available to physicians and other medical professionals is the qualified retirement plan.

The opportunity to put aside money that has not been taxed and invest those savings in a tax-deferred manner can go a long way toward providing a comfortable retirement for you and the other employees in your medical practice.

You can choose among an array of retirement savings plans authorized by the tax law, collectively described as “qualified retirement plans.” While the technical requirements vary, all qualified plans offer two common benefits:

1. Monies contributed to the plan are not taxed currently.
2. Earnings generated by plan investments are not taxed until distributed.

If you’re an employee of your medical practice, your plan must satisfy a formidable list of requirements, which reflect two underlying policy objectives:

1. The plan should carry minimum risk for participating employees. To meet this objective, the law requires that:

- ▲ Plans be written, permanent arrangements administered in trust form by an independent trustee
- ▲ Plans be funded by employers transferring cash or other valuable property to the trust
- ▲ Employees have a nonforfeitable (vested) right to 100 percent of their retirement benefits after no more than seven years of service with the employer

2. The plan should provide equitable benefits to all participating employees. Accordingly, if you aren’t the only employee of your medical practice, the others must receive comparable benefits under the plan.

Defined benefit pension plans

With a pension plan, employers make annual tax-deductible contributions based on the actuarially determined cost of future retirement benefits. As a result, your medical practice may be required to make contributions in a year in which it

operates at a loss or experiences cash flow difficulties. Also, if the plan suffers investment setbacks, you may have to make higher contributions to fund the promised retirement benefits.

However, if your practice has only a few employees, establishing a pension plan can be a good way to put away substantial cash for your future retirement.

The annual pension amount is limited to the lesser of 100 percent of the retiree’s average compensation for his or her three highest compensation years or an inflation-adjusted base amount (\$195,000 for 2011).

Defined contribution plans

With a defined contribution plan, the trust maintains a separate account for each employee. Each year, the employer contributes a specified amount to each account. The yearly contribution for each employee is limited to the lesser of 100 percent of annual compensation or an inflation-adjusted base amount (\$49,000 in 2011). The employer’s tax deduction is generally limited to 25 percent of compensation expense.

Defined contribution plans may take several forms.

Profit-sharing plans are those under which employers contribute a percentage of current earnings to a retirement trust. Employers have no obligation to contribute in loss years.

Section 401(k) plans are also described as salary reduction plans or cash-or-deferred plans. Under these plans, each employee defines his or her own contribution by authorizing the employer to divert some amount of current salary into retirement savings. In 2011, the maximum compensation that most employees can contribute to a 401(k) plan is \$16,500. Employees age 50 and over can contribute up to \$22,000.

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Physicians can take advantage of new tax breaks

December's passage of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010, extending the Bush tax cuts, and the Small Business Jobs Act signed into law last September offer some significant tax breaks, beginning with the 2010 tax year.

Expensing

A jobs act provision increases the expensing deduction limit (Section 179 of the tax code) for business equipment purchased and placed into service during 2010 and 2011. Practices can deduct up to \$500,000 worth of qualified purchases, such as new or used electronic equipment, furniture and fixtures. This deduction doubles the immediate write-off that would have applied in 2010 and increases the amount from \$25,000 to \$500,000 for 2011. The tax relief act increases expensing limits from \$25,000 to \$125,000 for 2012.

In addition, for the first time, qualified real property, including leasehold improvement property, can be expensed up to \$250,000 of the total \$500,000. So, physicians leasing space may take an immediate deduction on expenses related to remodeling offices during 2010. The rule applies for qualified real property placed in service during 2010 or 2011.

Whether to take an immediate deduction or to spread the cost of qualified purchases over several years depends on your specific situation. While accelerating deductions can lower your tax bite in 2010 and 2011, spreading write-offs could have tax advantages should future tax rates rise significantly. Therefore, it is important to discuss with your tax adviser which strategy works best for you.

Depreciation rules

"Bonus depreciation," which expired at the end of 2009, was extended with an additional plus. Taxpayers can deduct 50 percent of the cost of qualified property – generally, furniture, fixtures and equipment – placed in service

between Jan. 1, 2010, and Dec. 31, 2010. In addition, a new provision allows taxpayers to deduct 100 percent of qualified property placed in service after Sept. 8, 2010, and before Jan. 1, 2012.

First-year depreciation deduction limits for passenger automobiles also were increased. Physicians can deduct \$11,060 for new passenger vehicles acquired and placed into service in 2010.

Practices planning to add fixed assets should discuss the tax opportunities available this year with their tax advisers.

Other provisions

Some IRS rules were loosened by the jobs act. For example, the act removes cell phones from the definition of listed property beginning with the 2010 tax year. This means physicians no longer have to pay taxes on limited personal use of cell phones provided by the practice.

To increase federal revenues, the act includes some new reporting requirements. Those who receive rental income from real property must report to the IRS any payments of \$600 or more that are made to service providers in connection with the property beginning with 2011. Penalties were increased significantly for failure to file required information returns to payees and to the IRS in a timely manner.

A similar provision in the healthcare act requires employers, beginning in 2012, to complete a 1099 tax form whenever they spend \$600 on goods and services, including payments to corporations.

For more information on the impact of the tax relief and jobs acts, consult your tax adviser. – *Irene E. Lombardo*



Retirement plan *continued from page 2*

A safe-harbor 401(k) plan is not subject to the complex annual nondiscrimination tests that apply to traditional 401(k) plans. It must provide for employer contributions that are fully vested when made. These contributions may be employer matching contributions, limited to employees who defer, or employer contributions made on behalf of all eligible employees, regardless of whether they make elective deferrals.

Simplified employee pensions

The simplified employee pension (SEP) plan is arguably the easiest retirement plan for a small business to put into practice. The plan requires very little paperwork, is extremely flexible and does not require the approval of the IRS.

SEPs work very much like individual retirement accounts but with higher contribution limits. Employers can contribute up to the lesser of 25 percent of annual compensation or an inflation-adjusted amount (\$49,000 in 2011) into this type of plan.

Qualified plans for the self-employed

Self-employed individuals, including partners in a medical partnership, can make annual payments to a Keogh plan. Keogh plans can be either defined benefit or defined contribution plans.

Individuals who own defined contribution Keogh plans can invest the lesser of 100 percent of self-employment income or an inflation-adjusted base amount (\$49,000 in 2011) each year.

If a self-employed person with a Keogh plan hires an employee, the employee must be provided with a qualified retirement plan with benefits similar to those available to the self-employed individual under the Keogh plan.

Visit your tax adviser to discuss how qualified retirement plans can offer significant tax advantages to both you and your employees. – *Michael Redemske, CPA*

Incentive program *continued from front*

- ▲ Provide a Taxpayer Identification Number to which payments will be applied
- ▲ Select to participate in either the Medicare or Medicaid incentive program

Attestation and payment

The Centers for Medicare & Medicaid Services (CMS) will not be able to receive data from certified EHRs in 2011. To receive an incentive payment this year, physicians must attest in writing to a certified EHR and meeting the objectives associated with meaningful use for a consecutive 90-day period.

Those who do not start the program until 2012 or later will need to show meaningful use for a full year. False attestation can lead to fraud charges. Under the Health Information Technology for Economic and Clinical Health (HITECH) Act, civil penalties can range from \$250,000 to \$1.5 million.

Physicians who have registered, attested and been approved can expect to receive their Medicare incentive payments once they have met the \$24,000 threshold for 2011. The payment will be made electronically to the bank account a physician currently uses for Medicare claim payments. Physicians can track the status of their incentive payments online.

Physician agreements

Incentive payments will be sent to individual physicians, not to the practice. The program allows eligible providers to reassign incentive payments to their employers. But reassignment is not required even if the employer bore all the costs of purchasing and implementing EHR technology.

Additionally, a provider who works for multiple employers may choose to reassign payment to only one employer. ARRA does not provide any guidance or criteria for determining which one should receive payment.

As a result, practices that expect to recover incentive money need to be clear on how the payments for their physicians will be handled. Practices should review and, if necessary, amend their provider contracts or develop an agreement specifically covering incentive payments.

Tax implications

As the saying goes, "There is no such thing as a free lunch." Incentive payments will be taxed as income.

According to the Health and Human Services website, nothing in the law excludes such payments from taxation or specifies the payments as tax-free income. You should consult your tax adviser about how to report payments properly. – *Irene E. Lombardo*

Your Healthy Practice

The technical information in this newsletter is necessarily brief. No final conclusion on these topics should be drawn without further review and consultation. Please be advised that, based on current IRS rules and standards, the information contained herein is not intended to be used, nor can it be used, for the avoidance of any tax penalty assessed by the IRS.

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