MEMO

A PRODUCT OF THE JFNA STRATEGIC HEALTH RESOURCE CENTER

The Jewish Federations® OF NORTH AMERICA
Washington Office

To:	JFNA Health & Long-Term Care Committee, the SHRC Strategic Advisory Council, and Other Interested Parties
From:	Elizabeth Cullen, Senior Legislative Associate, SHRC
Date:	March 4, 2016
Re:	Behavioral Health, Long-Term Care and the Availability of HITECH Matching Funds to Help Professionals and Hospitals Eligible for Medicaid Electronic Health Record Incentive Payments

---

Introduction: New Federal Funding for Health Information Technology & Exchange

On February 29, 2016, the Centers for Medicare and Medicaid Services (CMS) announced a limited initiative under the auspices of the Medicaid program to expand access of interoperable health information technology to behavioral health providers, long-term care (LTC) providers and others. Interoperability is the sharing of a patient's healthcare information among different electronic health record ((EHR) systems. Although the scope of this new effort does not achieve everything JFNA has been advocating for in this area, it is a profound starting point, significantly because CMS has utilized this opportunity to recognize the importance of expanding health information technology funding opportunities to the healthcare industry's behavioral health and LTC sectors:

> The free flow of information is hampered when not all doctors, facilities or other practice areas are able to make a complete circuit. Adding long-term care providers, behavioral health providers, and substance abuse treatment providers, for example, to statewide health information exchange systems will enable seamless sharing of a patient's health information between doctors and clinicians when it's needed (Slavitt, A. and DeSalvo, Karen. "Bridging the Healthcare Digital Divide: Improving Connectivity Among Medicaid Providers." *Blog.cms.gov.* 3/2/2016 Published. 3/3/2016 Accessed.).

JFNA's Strategic Health Resource Center asserts that this new initiative is indeed a step forward, though a limited one, in helping to achieve true care coordination for patients throughout the healthcare industry. This memorandum provides context for CMS' change in direction by briefly summarizing existing federal health information technology efforts and the scope of the newly announced program.

Background: Prior Federal Investment in HIT

The federal government, JFNA, and many other leading organizations involved in this issue have recognized that health information technology (HIT) through the use of electronic health records that can maintain and exchange patients' health information increasingly is playing a critical role in improving patient care and lowering costs. A majority of hospitals and physicians across the country have now adopted HIT largely due to federal investment of more than $30 billion under the Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009. This Act created the "Meaningful Use" Program under both Medicare and Medicaid that enabled clinicians (e.g., physicians) and hospitals to receive federal incentive payments promoting their investment in HIT. Behavioral health and LTC providers, however, were left out of this original effort, and as a consequence, have lagged behind in their adoption of electronic health records. Over the past seven years since the exclusion of Behavioral Health and LTC providers from the program, the U.S. Department of Health and Human Services has observed that ineligible providers serve some of the most vulnerable populations, populations which the federal government conceded are most in need of

1720 I Street, NW
Washington, DC 20006-3736

Phone 202.785.5900
Fax 202.785.4937
JewishFederations.org/washington
jfederations @jfederations

FUNDING FOR THE STRATEGIC HEALTH RESOURCE CENTER HAS BEEN GENEROUSLY PROVIDED BY:

The Jewish Federation of Pittsburgh
Jewish Healthcare Foundation of Pittsburgh
Lifebridge Health
Miami Jewish Health Systems
Michael Reese Health Trust
Mt. Sinai Health Care Foundation

care coordination, but the agency has stopped short of recommending that behavioral health providers and nursing homes should be included in the Meaningful Use Program (https://aspe.hhs.gov/basic-report/ehr-payment-incentives-providers-ineligible-payment-incentives-and-other-funding-study).

In a major change of direction, on February 29th, CMS released a letter to state Medicaid directors announcing the availability of HITECH matching funds to help those clinicians and hospitals currently eligible for Medicaid EHR Incentive Payments connect to other Medicaid providers who are not currently eligible (e.g., behavioral health providers, substance abuse treatment centers, and LTC providers). A March 2nd blog issued jointly by CMS Action Administrator Andy Slavitt and the Office of the National Coordinator for HIT Karen DeSalvo seemed to suggest that through this action CMS might be opening the door to the Meaningful Use Program's incentive payments for the adoption of health information technology systems to behavioral health and long-term care providers. The question most relevant to the Strategic Health Resource Center is whether CMS actually will be expanding its Medicaid Meaningful Use Program to enable behavioral health and LTC providers to access the federal stimulus HIT adoption funding available to physicians and hospitals under the HITECH Act.

Analysis: New CMS Recognition of the Importance of Expanding the Federal Government's Investment in HIT to Behavioral Health and LTC Providers

CMS is indeed taking a step forward, but the letter to state Medicaid directors does not appear to authorize direct incentive payments under the Meaningful Use Program for behavioral health and LTC providers to adopt HIT. Specifically, the letter states that "[u]nder no circumstances may States claim 90 percent HITECH match in the costs of actually providing EHR technology to providers or supplementing the functionality of provider EHR systems" (CMS State Medicaid Director Letter, p.3).

The letter clarifies two issues, however. First, state Medicaid agencies can claim an enhanced federal Medicaid matching rate (FMAP) of…90%...for "on-boarding" (a process of qualifying and validating providers) Medicaid providers to Health Information Exchanges or interoperable systems. That enhanced match is specifically available for on-boarding Medicaid providers who are not eligible for Meaningful Use "including behavioral health providers, substance abuse providers, long-term care providers (including nursing facilities), home health providers, public health providers, and other Medicaid providers, including community-based Medicaid providers." Second, states can only claim the funds for on-boarding these additional providers if on-boarding helps existing Meaningful Use providers, such as physicians and hospitals, meet Stage 2 and Stage 3 Meaningful Use goals, such as electronic prescribing, medication reconciliation, making electronic lab orders, and so forth.

In short, according to this recent CMS letter, it seems that the agency soon will allow federal Medicaid matching funds to pay for state activities promoting the expansion of HIT to providers not currently eligible for the Meaningful Use (e.g., perhaps to connect a hospital to a behavioral health provider that already has an EHR system), but not to help behavioral health and LTC providers pay for their own adoption of interoperable EHR systems. Nevertheless, the letter stands as clear federal recognition for the need to expand HIT to behavioral health and LTC providers in order to achieve true care coordination throughout the healthcare industry.

Next Steps

In the CMS letter to state Medicaid directors, CMS also states that it intends to issue updated, detailed guidance that will integrate its prior principles with this change. The SHRC will continue to monitor this issue closely and will expect to review the new CMS guidance when it becomes available. The SHRC also work with other national advocates to approach CMS on possible ways to expand this initiative to provide more direct federal funding for HIT adoption by behavioral health and LTC providers.