

## Information Sheet on the CMS HITECH 90-10 Funding Program

The first step in your planning is to get more familiar with the HITECH/HIE 90-10 funding program. This tip sheet provides most of what you need to know to get started. The accompanying worksheet provides a place to record your ideas and questions.

### Key points

- The Centers for Medicare and Medicaid Services (CMS) currently funds states to support activities related to Meaningful Use and health information exchange. These funds can support IIS activities to support provider participation in Meaningful Use and the IIS.
- CMS will reimburse 90% of costs as long as the state provides a 10% match in non-federal funds. This arrangement is known as Federal Funding Participation (FFP) or “90-10 Match.” The specific funding program discussed here is either known as the HITECH FFP program (Health Information Technology for Economic and Clinical Health) or the HIE FFP program (Health Information Exchange).
- For many, the most challenging aspect of applying for CMS funding is finding the 10% non-federal match. Nevertheless, a growing number of states have been successful in identifying matching funds, almost always by engaging senior leadership in the health department.
- The Federal Financial Participation programs of CMS have an important feature known as “fair share cost allocation.” This means CMS will pay for 90% of the cost that can be allocated to and benefit the Medicaid program and its beneficiaries, often determined by what percent of the population is on Medicaid.
- Accessing these funds involves working with and through your Medicaid program. Funding flows to the Medicaid program, so if public health is in a separate agency from Medicaid, an inter-agency agreement may need to be in place to enable transfer of funds to public health.
- The HITECH/HIE funding program is currently authorized through 2021, so it would be prudent to not delay in beginning your planning.

### Background

The Centers for Medicare and Medicaid Services (CMS) provides funding to state Medicaid programs through a variety of programs that involve Federal Funding Participation (FFP), wherein the federal funds provided need to be matched by the state with non-federal dollars. One such FFP program is aimed at increasing health information exchange and achieving the goals for the Meaningful Use program. It is known as the HITECH FFP program (for the Health Information Technology for Economic and Clinical Health Act) or sometimes known as the “HIE 90-10 program” (for Health Information Exchange). The “90-10” refers to CMS providing 90% of the approved funds for eligible activities. (More information on how costs are shared can be found below.) An increasing number of health departments have worked with their Medicaid programs to secure these funds for supporting public health activities related to Meaningful Use (MU) and health information exchange to support broader Medicaid quality goals, which align well with public health and immunization program goals.

In early 2016, CMS expanded the scope of allowable activities under HITECH FFP program, which has created increased interest on the part of public health to partner with Medicaid.<sup>1</sup> The updated guidance means that 90-10 funding can now be used more broadly to increase public health capabilities and readiness related to MU and health information exchange requirements. As stated in the [letter to state Medicaid Directors](#)<sup>1</sup>:

*“Similarly, subject to the parameters and cost controls described above, States may also claim 90 percent HITECH match for the costs of on-boarding Medicaid public health providers to interoperable systems and HIEs connected to Eligible Providers so that Eligible Providers are able to meet Meaningful Use measures focused on public health reporting and the exchange of public health data, including activities such as validation and testing for reporting of public health measures described in 42 CFR 495.22 and 495.24.”*

As also stated in the same letter:

*“States must ensure that any 90 percent HITECH match claimed under the guidance in this letter supports Eligible Providers’ demonstration of Meaningful Use modified Stage 2 and 3, and must therefore report on the extent to which the activities they are funding help Eligible Providers demonstrate Meaningful Use.”*

*Note:* Reading the entire [February 2016 letter](#) to state Medicaid Directors referenced in footnote 1 below is highly recommended.

According to the Office of the National Coordinator for Health IT (ONC)<sup>2</sup>, four “stand out” projects under HITECH that have been approved by CMS in various states are:

- Systems for registration of intent for Meaningful Use (MU)
- Onboarding for all MU measures (including IIS)
- Building infrastructure
- Building specialized registries (e.g., Zika)

For IIS, this may include not just connections with and onboarding of providers, but system enhancements designed to better support the onboarding process and the exchange of information, including readiness for bi-directional/query-response exchange or incorporating NDC codes. It can also include new staff focused on onboarding Medicaid providers for stage 2 or 3, or moving them to bi-directional/query-response exchange for stage 3. (More information and examples of possible activities can be found in the [fourth module, Identifying Possible IIS Activities.](#))

## Understanding the Implementation Advance Planning Document

CMS and state Medicaid programs follow a very detailed and thorough planning and approval process, including for the HITECH FFP program. The basic instrument used to convey a state’s plan is known as an Advanced Planning Document or APD. There are two types of APDs, one for Planning (Planning

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<sup>1</sup> See State Medicaid Director Letter #16-003 (February 29, 2016), “Availability of HITECH Administrative Matching Funds to Help Professionals and Hospitals Eligible for Medicaid EHR Incentive Payments Connect to Other Medicaid Providers.” Available at <https://www.medicaid.gov/federal-policy-guidance/downloads/SMD16003.pdf>.

<sup>2</sup> Medicaid and the Public Health Community, kick-off webinar, August 12, 2016, available at [https://basecamp.com/2847230/projects/12715790/messages/61223602?enlarge=244667951#attachment\\_244667951](https://basecamp.com/2847230/projects/12715790/messages/61223602?enlarge=244667951#attachment_244667951) (requires registration).

Advanced Planning Document or PAPD) and one for implementation (Implementation Advance Planning Document or IAPD). Since states Medicaid programs have been working on HITECH goals for a while, you would most likely be involved in helping to prepare for the next IAPD for your state (see the [IAPD template](#)).

Activities included in an I-APD must typically address one or more of the following criteria:

- Supports achievement of MU measures.
- Supports onboarding of providers.
- Focuses on design, development or implementation (not maintenance).

The other critical attribute to know is that the HIE/HITECH funding is for *implementation* only (i.e., activities that enable or expand the level of effort around the three criteria above), not for ongoing *maintenance* (although other CMS funding streams can support maintenance). For activities other than provider on-boarding, the key words to remember are *design, development and implementation*. If you can clearly articulate how your proposed activities for system enhancements or other activities fit under one or more of those words, you improve your chances of being approved.

## Understanding the 10% Match

For most jurisdictions, the most challenging aspect of applying for CMS funding is finding the 10% non-federal match. State dollars have been steadily diminishing for many jurisdictions, with an ever-increasing reliance on federal dollars to support programs and staff. Nevertheless, a growing number of states have been successful in identify matching funds, almost always through the critically important conversations with senior leadership (see [module 3 on Building Agency Collaborations](#) for more information on working effectively internally to build support). Examples from other states include:

- State general funds to public health and/or to Medicaid
- State dollars appropriated for e-health/health information exchange infrastructure
- State tax on health care services
- State tax on commercial health insurance products
- Payor taxes/surcharges
- Vaccine trust account

Counting state-supported staff time as part of the match is not allowed (or at least extremely unlikely to be approved by CMS) because so much of a typical health department's operations are supported by federal funds through indirect and direct charges. CMS considers this to violate conflict of interest regulations. One possibility, however, is to pay for staff with other funds, and then use the savings in state funds toward the 10% match.

A few of the states interviewed in developing this toolkit cautioned others to verify that the non-federal match funds identified will be available up to two years from when the process started, since the entire CMS review and approval process may take more than a year (although the timeline is reportedly shortening as experience with the HITECH funding process grows). A one-time, "available now, use-it-or-lose-it" funding source for the match may not be a good choice, unless there is a way to "bank" those funds until needed.

## Understanding Cost Allocation

The Federal Financial Participation programs of CMS have an important feature known as “fair share cost allocation.” This feature basically ensures that Medicaid is only paying for its fair share of costs for services that benefit others beyond Medicaid providers or populations. So, for instance, building a new vaccine inventory module for improved VFC management and accountability clearly supports federal and Medicaid priorities. However, it can also be used for managing private vaccine inventories, so CMS may want to contribute its fair share but expect other funding to support the rest. A customary formula for determining such a cost allocation is to use the proportion of the state’s population eligible for Medicaid. For example, if 33% of the population is eligible for Medicaid in your state, and the total cost of an activity is \$100,000, the formula would look like this:

$$\$100,000 \times 0.90 \text{ (the 90\% from CMS)} \times 0.33 \text{ (percent on Medicaid)} = \$29,700 \text{ (amount paid by CMS)}$$

In this simple example, CMS would provide 90% of one-third of the total costs, or \$29,700. The immunization program would need to provide \$2,970 in non-federal funds for the match, and the remainder (67% of the total) using whatever federal or non-federal funds it had available.

To look at it another way:

\$27,700	from CMS
\$2,970	non-federal match
<u>\$67,330</u>	other federal or non-federal funds
\$100,000	

Some activities, however, are generally considered *fully relevant* to CMS/Medicaid, so are funded *fully* at the 90% level; in others words, no fair share cost allocation formula is applied. For instance, on-boarding Medicaid or Medicare providers/hospitals for Meaningful Use would not be cost allocated (other than the 10% match requirement) since that activity is fully in support of Medicaid and Meaningful Use priorities.

## Understanding How the Funding Works

Unlike most public health funding streams, Medicaid funding streams are on a reimbursement basis—they are not grants nor cooperatives agreements that provide funding up front. Your Medicaid program has a schedule for applying for reimbursements, likely monthly or quarterly. Until those funds arrive at the health department, you will need to have access to funds to cover the new activities and any staff that were approved.

If the Medicaid program is in a separate agency from health, you may need a Memorandum of Understanding or other instrument to enable the inter-agency transfer of funds. Once funding is secured, which can take several months to over a year, it tends to be stable, especially if you establish goals/metrics that will require several years to achieve. *Ensure that funds transferred from Medicaid to the health department can be designated for your program*, and do not go into a general health department or even state general fund.

The Advanced Planning Documents span two years but IAPDs are generally updated and submitted annually and CMS awards funds on an annual Federal Fiscal Year basis (October 1 – September 30). Once funding is approved and projects are underway, you will also need to provide (through your Medicaid program) regular reports to the CMS regional office.

## Understanding the Role of the CMS Regional Office

The regional offices of CMS play an important role in the Implementation Advanced Planning Document (IAPD) process. They provide initial advice, review draft and final planning documents, and ultimately approve or disapprove funding requests. Your Medicaid partners will ideally be working closely with their CMS regional office to refine and “sell” your proposed activities.

Given the importance of the regional offices, your Medicaid partners will likely want to oversee all communication with regional staff. Do not assume you can reach out to regional staff directly, and be sure to copy your Medicaid partners on any response if, by chance, you are contacted directly.

Health departments working with Medicaid on 90-10 funding have reported regular communication to be very beneficial, making the IAPD writing process more efficient and expediting approvals. It is also likely that not every regional office is equally experienced in reviewing requests for public health funding. If you encounter barriers working with the regional office, you may need to reach out to the two individuals listed below under For More Information and/or work with the CMS central office.

However, challenges have been reported as well, which you may want to be prepared for, including:

- Unclear and inconsistent approval of HITECH FFP projects.
- Uncertainty about whom to contact at CMS due to staff turnover and unclear chains of command.
- Inconsistent guidance from regional CMS staff.
- Long approval processes that may cause the IAPD to not be approved before the budgeted fiscal year.<sup>3</sup>

## Understanding the role of Health Information Exchanges

One area in which there has been a fair amount of confusion is whether a Health Information Exchange organization must be involved to secure these HITECH funds. The earlier guidance from CMS did emphasize working with HIE organizations as part of broader HITECH goals. However, the February 2016 [letter to State Medicaid Directors](#) broadens the allowable activities to include “other interoperable systems” that support the HITECH and MU goals. These supporting systems reportedly can include a variety of other systems involved in exchanging health information, including IIS, which of course is also a critical part of meeting MU requirements. To again quote from the February 2016 letter:

*“Subject to the parameters and cost controls described above, States may claim 90 percent HITECH match for state costs of supporting the initial on-boarding of Medicaid providers onto an HIE, or **onto any interoperable system** that connects Eligible Providers to other Medicaid providers” [emphasis added].*

But note that your Medicaid program or state HIT coordination office may require the participation of an HIE organization based on legislative or executive policy priorities.

## Other Important Things to Know

- Making an informed and credible initial overture to your Medicaid program is a critical factor in successfully negotiating an effective, ongoing win-win relationship. This requires understanding

<sup>3</sup> State Experiences with HITECH Federal Financial Participation Opportunities for Public Health Related Activities, 2016, available from <http://www.astho.org/Programs/Informatics/Policy/>

the drivers, priorities and vocabulary of CMS and the Medicaid program (see [module two, Learning About CMS and Medicaid](#)). That's why this toolkit was developed.

- The planning and application process is complex, it can be long, and it is managed and controlled by your state's Medicaid program in conjunction with the CMS Regional Office. How involved or informed you are throughout the process will depend on the relationship you forge with your Medicaid program leadership and staff.
- There will almost certainly be a period of needing to revise the IAPD based on feedback from the CMS regional office review, so factor that into your planning.
- If public health and Medicaid are in separate state agencies, you may find more challenges in terms of coordination, collaboration and communications.<sup>4</sup>
- Public health processes (e.g., provider onboarding processes) and quantifying the benefit to Medicaid recipients can be difficult to package and communicate to the state Medicaid agency. Don't assume they understand the work of your IIS or of your health department.<sup>4</sup> Consider quantifying the benefit of IIS to Medicaid by highlighted the costs of duplicate immunizations or under-immunization.
- Your Medicaid program, or your own senior leadership, may ask that all health department programs, such as those involved in Meaningful Use, coordinate in their approach and priorities, and to share in newly-developed infrastructure or services whenever possible.
- Be aware of the short- and medium-term costs for applying for the HITECH funds, both in terms of the staff time and the opportunity costs (what isn't getting done because of working on this IAPD). Some jurisdictions reported used a consultant familiar with the IAPD process to do much of the heavy lifting for the health department.
- How much or how little you ultimately receive for IIS activities depends not so much on CMS, for whom this money has already been allocated by Congress, but upon how ambitious or limited you are in the scope of activities negotiated with your Medicaid program. Having said that, interviewees stressed the importance of not overreaching in the first year and of building a solid foundation of trust and credibility with their Medicaid colleagues.
- The HITECH/HIE funding program is currently authorized through 2021, so it would be prudent to not delay your planning process since it might take up to two years, depending upon where your Medicaid program is in its cycle of funding proposals and plans to CMS.

### For more information

See [module two of this toolkit \(Learning About CMS and Medicaid\)](#) for definitions of key terms used within CMS and Medicaid, and [module four \(Identifying Possible IIS Activities\)](#) for more information and tips on eligible activities.

See the resources section below for various policy directives, FAQs, templates and other artifacts from CMS, the ONC and states.

For specific questions on the HITECH 90-10 program before you meet with Medicaid, or to request assistance in your preparations, contact:

Jim Daniel, ONC, [james.daniel@hhs.gov](mailto:james.daniel@hhs.gov)

Thomas Novak, ONC, [thomas.novak@hhs.gov](mailto:thomas.novak@hhs.gov)

3. State Experiences with HITECH Federal Financial Participation Opportunities for Public Health Related Activities, 2016, available from <http://www.astho.org/Programs/Informatics/Policy/>

**Resources**

- State Medicaid Directors letters and FAQs:
  - [SMDL #16-03](#)
  - [CMS FAQ Sep 2013](#)
  - [SMDL #11-004](#)
  - [SMDL #10-016](#)
  - [SMDL #09-006](#)
- [HITECH, Meaningful Use, and Public Health: Funding Opportunities for State Immunization Registries](#), CMS, May 2011
- [Expanded support for Medicaid Health Information Exchanges, CMS, 2016](#)
- [CMS web page on HIT/HIE funding: Map of states approved or in process](#)
- [CMS FAQ on eligibility for 90-10 federal matching funds](#), Sept 2013
- [State Experiences with HITECH Federal Financial Participation Opportunities for Public Health Related Activities](#), 2016
- [Maximizing Public Health Partnerships with Medicaid to Improve Health toolkit](#), ASTHO, 2016.
- [Case Study: Washington's Experience Securing Medicaid 90/10 Match Funds](#)