State of Wyoming

Department of Health
Public Health Division
Rural and Frontier Health Section
Office of Rural Health

Rules and Regulations for the
Critical Access and Rural Hospital Technology Grant Program

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Chapter 9
Rules and Regulations for the
Critical Access and Rural Hospital Technology Grant Program

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Chapter 9. The Critical Access and Rural Hospital Technology Grant Program

Intent to Adopt

Statement of Reasons

The Wyoming Department of Health proposes the following Rule to comply with the provisions of Section 355 of the Wyoming Department of Health Budget which was amended in the 2011 General Session at 2011 Wyo. Sess. Laws 260. Section 355 authorizes the Department of Health to promulgate a Rule to implement the Critical Access and Rural Hospital Technology Grant Program.

This Proposed Rule establishes the Critical Access and Rural Hospital Technology Grant Program.

As required by W.S. 16-3-103(a)(i)(G), the Rule implementing the Critical Access and Rural Hospital Technology Grant Program meets minimum substantive state statutory requirements.

THE CRITICAL ACCESS AND RURAL HOSPITAL TECHNOLOGY GRANT PROGRAM

CHAPTER 9

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THE CRITICAL ACCESS AND RURAL HOSPITAL TECHNOLOGY GRANT PROGRAM

CHAPTER 9

Section 1. Authority.

These rules are promulgated by the Department of Health, Public Health Division, Rural and Frontier Health Section, Office of Rural Health pursuant to Section 355 of the Wyoming Department of Health Budget at 2011 Wyo. Sess. Law 260, and the Wyoming Administrative Procedures Act at W.S 16-3-101, *et seq*.

Section 2. Purpose and Applicability.

(a) These rules implement the Critical Access and Rural Hospital Technology Grant Program and create a process for administering the award of grant funds for the purchase of technologies by critical access and rural hospitals, as defined in W.S. 35-1-1002(a)(ii), to assist those hospitals in meeting the federal requirements of "meaningful use" of electronic health records under the American Recovery and Reinvestment Act of 2009. Any electronic health record technology or module purchased with grant funds from this Program must be certified, as defined in Section 4 of these rules.

(b) The Department may issue manuals, bulletins or both to interpret the provision of these rules and regulations. Such manuals and bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in manuals or bulletins shall be subordinate to the provisions of these rules and regulations.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules and regulations.

Section 3. Severability.

If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions.

The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and visa-versa. Throughout these rules gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers in random distribution. Words in each gender shall include individuals of the other gender.

For the purpose of these rules, the following definitions shall apply:

(a) “Applicant” means a critical access or rural hospital, as defined in W.S. 35-1-1002(a)(ii), which is applying for this grant.

(b) “Certified Electronic Health Record (Certified EHR)” means electronic health record technology or modules that offer the necessary technological capability, functionality, and security to help with meeting “meaningful use” criteria. Certification also helps providers and patients be confident that the electronic health IT products and systems used are secure, can maintain data confidentially, and can work with other systems to share information. Information on which electronic health record systems and modules are certified for the Medicare and Medicaid EHR Inventive Programs can be found online at http://healthit.hhs.gov/.

(c) “Critical Access Hospital” means a hospital with twenty-five (25) beds or less that is designated by the Centers for Medicare and Medicaid Services (CMS) as a Critical Access Hospital.

(d) “Current Ratio” means the comparison of current assets to current liabilities (current ratio equals current assets divided by current liabilities).

(e) “Days Cash on Hand” means the numbers of days of cash available based on the following equation: cash on hand plus investment plus non-restricted funds at month's end divided by operating expense minus bad debt expense minus depreciation expense divided by 30.4.

(f) “Department” means the Wyoming Department of Health, Public Health Division, Rural and Frontier Health Section, Office of Rural Health.

(g) “Electronic Health Record (EHR)” means an electronic version of a patient’s medical history that is maintained by the provider over time, and may include all of the key administrative clinical data relevant to that person’s care under a particular provider, including demographics, progress notes, problems, medications, vital signs, past medical history, immunizations, laboratory data, and radiology reports. The EHR automates access to information and has the potential to streamline the clinician's workflow. The EHR also has the ability to support other care-related activities directly or indirectly through various interfaces, including evidence-based decision support, quality management, and outcomes reporting. This definition, as well as additional information on EHRs, can be found on the Centers for Medicare and Medicaid Services (CMS) website at http://www.cms.gov/EHealthRecords/.

(i) For the purposes of the Medicare and Medicaid Incentive Programs, eligible professionals, eligible hospitals, and critical access hospitals must use certified EHR technology. A list of certified EHR systems and modules is available online at http://healthit.hhs.gov/.

(h) “Grant” means an award of state funds to an applicant through a written Grant Award Agreement.

(i) "Grant Amount" means the Program funds identified in the Grant Award Agreement.

(j) "Grant Award Agreement" means a legally enforceable and binding agreement describing the terms of the commitment between the Department and the grantee.

(k) "Grantee" means an applicant approved for a grant under the Program.

(l) "Grant Term" means the time frame under which a grantee must adhere to the Grant Award Agreement and Program requirements.

(m) "Meaningful Use" means the use of certified electronic health record technology in ways that can be measured significantly in quality and in quantity. The American Recovery and Reinvestment Act of 2009 specifies three (3) main components of "meaningful use": 1) the use of certified EHR in a meaningful manner, such as e-prescribing; 2) the use of certified EHR technology for electronic exchange of health information to improve quality of healthcare; and 3) the use of certified EHR technology to submit clinical quality and other measures. The full definition of "meaningful use" can be found online at www.cms.gov/EHRIncentivePrograms/30_Meaningful_Use.asp#BOOKMARK1/.

(n) "Operating Margin" means the ratio of operating income divided by revenue (operating margin = operating income / revenue).

(o) "Program" means the Critical Access and Rural Hospital Technology Grant Program.

(p) "Repayment Agreement" means a written amendment to the Grant Award Agreement setting forth the terms of repayment of grant funds to the state when grantee fails to comply with the terms of the Program, the rules and/or the Grant Award Agreement.

(q) "Rural Hospital" means a hospital with forty (40) beds or less, as defined by W.S. 35-1-1002(a)(ii). This includes Critical Access Hospitals as defined in (b) of this Section.

Section 5. Critical Access and Rural Hospital Technology Grants – Terms and Service.

(a) The Department shall issue Grant Award Agreements to the selected applicants. The Agreement shall set forth the terms of the grant, including, but not limited to, the grant amount, grant term, approved project, and payment terms.

(b) The grantee shall provide reports on the project status to the Department as set forth in the Grant Award Agreement between the grantee and the Department.

(c) Grantees must comply with all Grant Award Agreement requirements for the entire term of the Grant Award Agreement.

(d) No single grant award under this Program shall exceed Four Hundred Thousand Dollars ($400,000).

Section 6. Department Responsibilities.

(a) The Department shall develop an application form, process and timeline. The Department shall make the application form available in electronic format accessible by the public.

(b) The Department will accept applications during a specific time frame as determined and publicly announced by the Department. The Department will make determinations of grant awards within sixty (60) days of grant application submission.

(c) The Department will accept applications for funds to purchase technologies to assist critical access and rural hospitals in meeting the federal requirements of "meaningful use" of electronic health records in accordance with the American Recovery and Reinvestment Act of 2009. Any electronic health record technology or module purchased with funds from this Program must be certified, as defined in Section 4 of these rules.

(d) The Department will determine if the application meets the requirements in these rules prior to considering the applicant for a grant award.

(e) Applications that do not meet the requirements in these rules or that do not outline a project that will assist the applicant in meeting the federal requirements of "meaningful use" of electronic health records will be returned to the applicant with a written explanation.

(f) The Department shall determine the total amount of the grant authorized for each approved application. The grant amount for any single grant award shall not exceed Four Hundred Thousand Dollars ($400,000) regardless of the amount of grant funds requested in the approved application. The Department may consider all applications at one time in an effort to provide funds on a pro rata basis to the eligible applicants to assist as many applicants as possible in achieving "meaningful use."

(g) The Department shall notify the selected applicants and coordinate the Grant Award Agreement between the grantee and the Department. The Agreement shall set forth the terms of the grant, including, but not limited to, the grant amount, grant term, approved project, and payment terms.

(h) The Department shall make grant payments in the following manner:

(i) An initial, up-front grant payment may be made at the time the grant award agreement is finalized. This initial payment shall not exceed ten percent (10%) of the total grant award amount.

(A) The applicant may submit a request for an initial payment amount over ten percent (10%) of the total grant amount at the time the grant award agreement is

finalized. The decision to approve or deny such requests is at the sole discretion of the Department.

(ii) The Department will make the remaining payments based upon invoice from the grantee for completed work as identified in the Grant Award Agreement.

(iii) The Department will verify that grantees have supplied all required documentation as required under the Grant Award Agreement prior to making payments under the Grant Award Agreement.

(i) The Department shall verify grantee's compliance with the Program requirements by reviewing reports supplied by the grantee as required under the Grant Award Agreement.

(j) The Department shall collect, compile, and maintain the grantees' reports on project status.

(k) The Department shall require non-compliant grantees to repay the state one hundred percent (100%) of grant funds paid by the Department, in addition to all expenses incurred in collection, including attorney fees. This repayment shall be completed in a timely manner, pursuant to a written repayment agreement and schedule.

Section 7. Applicant/Grantee Responsibilities.

(a) Applicants must complete the approved Program application and submit it to the Department within the timeframe set by the Department.

(b) During the grant term, which will be identified in the Grant Award Agreement, grantees must:

(i) Provide reports on project status as required under the Grant Award Agreement.

(ii) Within sixty (60) days of the end of the grant term, as set forth in the Grant Award Agreement, the grantee must submit an end of grant final report to the Department that summarizes the project's successes, challenges, and outcomes.

(iii) Agree to repay the state all grant funds received and costs of collections, including attorney fees, if grantee fails to remain in compliance with the terms and requirements of these rules and the Grant Award Agreement for the entire term of the Grant Award Agreement.

Section 8. Eligibility Criteria for Critical Access and Rural Hospital Technology Grant Applicants.

(a) Rural hospitals with forty (40) beds or less, including Critical Access Hospitals, as defined by Section 4 of these rules, are eligible to apply for funds under the Program.

Section 9. Application Process.

(a) Applicant must complete the approved application and submit it to the Department with the appropriate and required supporting documents requested in the application.

(b) The application, among other documents and factors as outlined in these rules, will be used to determine if an applicant is awarded a grant and must:

(i) Include a narrative describing the scope of the project.

(ii) Include organizational financials, with and without tax support. Financials must include:

(A) Tax support received for each of the previous three (3) years;

(B) Savings, cash reserves, certificates of deposit, and other liquid assets for each of the previous three (3) years to determine ongoing available cash;

(C) Current Days Cash on Hand, as defined in Section 4 of these rules;

(D) Current Ratio, as defined in Section 4 of these rules; and

(E) Current Operating Margin, as defined in Section 4 of these rules.

(iii) Include the estimated amount that a fully-functional, certified electronic health record will cost the hospital. The basis of the estimate must be described in detail and include vendor information.

(iv) Include the estimated amount of Medicare incentive funding the hospital anticipates once the criteria for the electronic health record and "meaningful" use have been met.

(v) Include the estimated length of time required to achieve "meaningful use" of electronic health records from the beginning of the selection process through implementation and survey to demonstrate "meaningful use."

Section 10. Selection Process.

(a) The Department may involve internal and external partners in the selection process.

(b) Selection criteria shall include, but may not be limited to:

(i) Highest priority will be given to applicants with the greatest need, as determined by the Department and based upon information and documentation provided in the application. The Department may consider all applications at one time in an effort to provide

funds on a pro rata basis to the eligible applicants to assist as many applicants as possible in achieving "meaningful use" of electronic health records;

(ii) The Department shall use information from the application form and other sources in the selection process;

(iii) The Department shall make awards, at its sole discretion, to applicants who have documented an executable plan for achieving "meaningful use" of electronic health records and who have a project scope that is supported by the documentation provided in the application for funding.

Section 11. Critical Access and Rural Hospital Technology Grant Program Breach, Repayment and Penalties.

(a) A grantee who fails to complete or comply with the requirements of the Program, these rules or the Grant Award Agreement shall:

(i) Repay the state the full amount of grant funds received under the Program as of the date of the breach. The Department may include in the Repayment Agreement any costs and expenses incurred in collecting these amounts, including attorney fees and other litigation and court costs. Repayment shall be completed within one (1) year of the Department's determination of breach in accordance with the written Repayment Agreement.

(A) The Department, at its sole discretion, may consider extending the repayment term based upon the circumstances leading to the grantee's non-compliance. This extension will not result in a reduction in the return of one hundred percent (100%) of the grant funds paid to the grantee.

(B) The Department, at its sole discretion, may forgive a proportionate share of the amount to be repaid based upon the grantee's progress made toward achieving the federal requirements of "meaningful use" of electronic health records.

(C) Grantee must submit a written request to the Department for extension of repayment or forgiveness of a share of repayment. Upon receipt of written request from Grantee, the Department shall review and provide a written decision to the grantee. The decision to approve or deny a request for an extension of repayment or forgiveness of a share of repayment is at the Department's sole discretion.