Data Exchange Incentive Program (DEIP) Expansion
Frequently Asked Questions

Note: For the purposes of this document, the term "Participant" is used to refer to a regulated facility (Article 28/36/40), physician, practice, LTPAC provider/organization, BH provider/organization, etc. "Participant" is not intended to imply the existence of absence of a QE Participation Agreement with any particular QE. Any necessary clarification on a Participant's DEIP eligibility will be provided in the Q&A.

NOTE: The DEIP incentive is intended to offset one-time connection costs incurred by the provider.

Question 1: What regulated facility types are eligible for DEIP? Who else is eligible?

Answer: Article 28 facilities (with some exceptions), Article 36 facilities, and Article 40 facilities are eligible for DEIP. When referring to the NYS Open Data site of regulated facilities (Health Facility Certification list), Article 28 facilities **except** those with the description type "**Hospital**" or "**Primary Care Hospital – Critical Access Hospital**" are eligible for DEIP under the expansion of the program.

The Health Facility Certification list can be found here https://health.data.ny.gov/Health/Health-Facility-Certification-Information/2g9y-7kqm. This list provides information on Article 28 hospitals, nursing homes and diagnostic treatment centers, Article 36 home health care agencies and long term home health care programs, and Article 40 hospices.

Meaningful Use Providers (Medicare and Medicaid EPs) are also eligible for DEIP. These providers must also be Medicaid providers (they, or the organization they work for, bill Medicaid). ***UPDATE 10/24/16****:* "Medicaid" in this sense includes Medicaid fee-for-service or Medicaid Managed Care.

Behavioral Health providers are also eligible for DEIP. See Question 8 for more detail.

UPDATE 10/24/16*:* See question 13 for more information around eligible organizations and providers.

Question 2: If a Participant is already connected to a QE can they connect to another QE and receive the DEIP incentive?

Answer: No, if a Participant has already signed a participation agreement and is contributor of data to another QE, they may not receive the DEIP incentive.

Question 3: If a Participant is already connected to a QE and contributing data but they are not contributing data in C-CDA format as required by DEIP, can they receive the DEIP incentive if they upgrade their interface/connection to submit via C-CDA?

Answer: No, DEIP funds **will not** be used to incentivize an enhancement to data contribution to fulfill C-CDA format requirement. It is possible that in a future phase of DEIP, enhancements may be eligible for the incentive, but not at this time.

Question 4: Are hospital extension clinics eligible for DEIP incentive funds (those listed on the NYS Open Data site of regulated facilities with a description type "HOSP-EC" or "Primary Care Hospital - Critical Access Hospital Extension Clinic")?

Answer: If the extension clinic facility employs/bills for Meaningful Use Eligible Professionals (Medicare or Medicaid) AND the data to be contributed to the QE will not use an existing interface to the QE, they are eligible for the DEIP incentive. The DEIP incentive is intended to offset one-time connection costs incurred by the provider, so if an existing connection will be used DEIP shall not be issued.

Question 5: If Participant upgrades their data contribution to the QE from ADT only to full C-CDA, is DEIP incentive available?

Answer: Yes, since only ADT data is being contributed currently, the upgrade to C-CDA will provide significant more **clinical data** and the Milestone 2 DEIP incentive would be available in this case.

Question 6: If a Participant previously contributed CCDs (c32), but their vendor stopped supporting the add on they purchased for CCD exchange, can DEIP incentive be used to offset the costs to purchase a new C-CDA interface to reconnect to the QE?

Answer: Yes, this Participant would be eligible for the Milestone 2 incentive of DEIP (data contribution).

Question 7: If an EHR vendor is not capable of generating and submitting a C-CDA to the QE, can the Participant still receive DEIP incentive funds?

Answer: While contribution of the required data elements in C-CDA format is one of the requirements of DEIP, the DOH is willing to evaluate exceptions on a case by case basis. Participants are encouraged to share this requirement with their EHR vendor to better understand timing of functionality enhancements on the EHR vendor's roadmap; it is possible that C-CDA functionality may be available within the DEIP program window. Requests for exception considerations should be sent to deip@nyehealth.org.

Question 8: A widely used EHR vendor can provide data to a QE in CCD documents, but they cannot produce C-CDA documents. If the QE can receive their CCDs and incorporate their data into the HIE, so that if an MU provider requests a C-CDA from the QE, the QE can produce a C-CDA for the MU provider including the data from the aforementioned EHR vendor. Will NYS DOH authorize DEIP funding in this case?

Answer: As addressed in Question 7, at this time DOH will not grant a statewide exception for the use of EHR systems that are unable to generate a C-CDA. DOH and NYeC would welcome the opportunity to participate in a discussion with the vendor to better understand their capabilities and plans for C-CDA functionality in the future. Going forward from that point, an exception request may be considered.

Question 9: Some PPS leads have programs that provide funding to PPS partners when the partner reaches certain milestones. Providing data to a QE is often one such milestone. If the PPS lead provides funding to the partner upon the partner providing data to the QE, will NYS DOH still authorize the partner to receive DEIP funding?

Answer: DEIP is supported exclusively by CMS funds, specifically Medicaid funds. Additionally, DSRIP is funded by Medicaid. At the time of DEIP attestation, a provider or organization must attest that they have not received payment from any source for similar HIE activities. It should be determined by the Participant, and perhaps the PPS lead organization, whether DSRIP milestone payments are, in fact, duplicative with DEIP incentive or vice versa. The intent of DEIP is to offset one-time connection costs incurred by the provider, while recognizing that the DEIP incentive may more than cover the interface costs or it may not. The provider should be advised that if it is determined that the same HIE activity was funded by more than one source (DEIP, DSRIP, SIM, PTN, etc.) a claw back of any and all associated funds is possible.

Question 10: Does the 30% Medicaid patient volume threshold still apply to DEIP eligibility?

Answer: This patient volume threshold still applies to Medicaid EPs, as this is a requirement of Meaningful Use, 20% Medicaid patient volume for pediatricians. All other DEIP eligible providers must be "Medicaid Providers" meaning (they, or the organization they work for, bill Medicaid). "Medicaid" in this sense includes Medicaid fee-for-service or Medicaid Managed Care.

Question 11: Previously, there was a maximum of 40 EPs per site that were eligible for the $500 per EP portion of the incentive. Is that still the case?

Answer: Previously, there was a max of 40 EPs per site that were eligible for the $500 per EP portion, but the program guidelines are being updated to cap this portion at 40 EPs per connection to the QE.

The justification for this change is that DEIP has a finite pool of money to now serve a larger set of providers and provider types and the goal of the program is to offset the one-time connection costs for connecting to a QE.

Question 12: Is a private mental health clinic, owned and operated by licensed psychologists eligible for DEIP if they meet the EHR and data contribution requirements?

Answer: Generally speaking, this practice would not qualify for DEIP as they are not licensed by OMH. A practice operated by 2 licensed psychologists would not be licensed by OMH, as it wouldn't meet the applicability standard or provide the range of services required in a clinic. *See Question 13 for more information about eligibility and regulated/licensed entities.*

Question 13: What specific organizations, agencies, providers are eligible for DEIP under the expansion types?

Answer: As shared with the Business Operations Committee on October 18, 2016, to facilitate better tracking of DEIP eligibility and cross-referencing with other program and initiatives, DOH and NYeC will be sharing master list(s) with QEs to indicate eligible organizations and providers in the DEIP expansion categories: Regulated Facilities, Article 28 facilities (not hospitals or CAHs), Article 36, Article 40, Behavioral Health providers/agencies (OMH, OASAS, HCBS), Medicaid EPs, Medicare EPs who are Medicaid providers. If an organization or provider isn't on one of the lists, they are not eligible for DEIP at this time. The plan is to use public lists from authoritative sources; QEs will be able to reference the lists for verification of eligibility independent of NYeC and DOH. Lists should be finalized and communicated by end of October at the latest.

Update: Lists have been produced and shared with QEs. The most recent version was shared in March 2019.

Question 14: Can an organization get $2,000 for joining and not apply for $11,000 due to never meeting requirements?

Answer: The intent of the program is to offset the costs of connecting to a QE. Therefore, if a practice does not go live on their interface to the QE by the program deadline, NYeC may clawback the initial $2,000 portion of the incentive. For example: organization closes; is acquired by another organization; terminates their participation agreement with a QE; other instances where the organization no longer has a participation relationship to a QE; etc. Any organization that does not complete the DEIP milestones by September 30th, 2020 will be reviewed on a case by case basis for potential clawback of incentives.

Question 15: Can an organization get $2,000 for joining and apply for $11,000 later when they can meet requirements?

Answer: Yes, milestone 2 (data contribution and access - $11,000 portion) would come at some point after they achieve milestone 1 (QE Participation - $2,000 portion). The deadline for going live on data contribution will now continue beyond 9/30/18. Any changes/updates to deadlines will be provided to the QE as they are decided, but for now 9/30/20 is the effective deadline unless funding is exhausted before this time.

Question 16: We are getting calls from participants of other QEs who are having issues connecting to them. They are asking to join us and connect to our QE. Assuming they have qualified for DEIP, if they submitted Milestone A though another QE, but join our QE to get connected, can they still qualify for and submit Milestone B through our QE? In other words, does the DEIP program say that both Attestations must be submitted by the same QE?

Answer:

> • If a provider has already signed a QE Participation agreement (with any QE), then they cannot receive Milestone 1 payment.
> • If a provider is already connected to a QE (contributing data) they cannot receive the Milestone 2 incentive for connecting to another QE.
> • If a provider is not yet connected to a QE (contributing data), there is no requirement for both Milestones to be achieved through the same QE. However, QEs are encouraged to collaborate with each other as much as possible to ensure alignment on plans for connecting providers and that providers are best served by the SHIN-NY.
> • It's important to note that DEIP is not intended to be an incentive to encourage providers to switch QEs, while we realize that there may be circumstances where a switch does make sense.

Question 17: If an organization/provider is already a QE Participant and contributing much of the required data under DEIP, but they will be changing EHR vendors (for various reasons) can DEIP be available to offset the costs of the connection between their new EHR and the QE? The new EHR connection would support sending all required data.

Answer: No, DEIP will not be available in this case. Since the participant is already connected to the QE and contributing much of the required data, the DEIP incentive will not be available.

Question 18: Are Licensed Home Care Services Agencies (LHCSAs) eligible for DEIP. Some LHCSAs are not direct Medicaid billers and only contract with Managed Care Plans

Answer: Licensed Home Care Services Agencies (LHCSAs), as defined in article 36, are eligible for DEIP contingent upon the LHCSA billing Medicaid for services provided, either Medicaid Fee-For-Service or Medicaid Managed Care including Managed Long-Term Care (MLTCs) in New York State, as well as meeting all other DEIP program requirements. LHCSAs will need to provide the NPI or ETIN/Medicaid Provider ID that is used to bill Medicaid on the DEIP attestation forms.

Question 19: If an EHR connection has gone live between the provider and the QE but the EHR has yet to meet the privacy and security requirements set forth by DEIP however the EHR vendor becomes compliant while DEIP is still in effect, is the participant still eligible for DEIP funding?

Answer: To address the fact that some participants within the QEs have gone live prior to privacy and security requirements being fully met, NYeC and the NYSDOH have established guidelines to help participants qualify for DEIP funding once their vendor has completely met that privacy and security

requirements for DEIP and the participant is contributing the clinical data set in C-CD or C-CDA format. The following guidelines will apply to these participants.

Providers using EHR products that are not yet compliant with the privacy and security requirements set forth by DEIP may be "grandfathered in" to receive DEIP funding for Milestone 2 (contribution of required clinical data) *only after* the vendor successfully meets the requirements, as long as:

1. The provider is contributing all required data per DEIP specifications
2. The connection is new and was not in place prior to 4/1/2018 (existing DEIP requirement for connections points to 10/1/2016, but for the grandfather clause we would recommend the beginning of the SFY as most of the connections falling under this clause would be more recent)
3. Provider must be using the product/version that meets the DEIP privacy and security requirements

Other Guidelines:

- Providers may not attest to DEIP Milestone 2 **until** the vendor is compliant with the privacy and security requirements (no advance attesting)
- Providers are not guaranteed DEIP funds (limited funding, first come-first serve, program deadlines remain in place).
- In the event that the EHR vendor does not successfully obtain the required privacy and security assurances per DEIP, the provider is not entitled to incentive funding. Providers are operating at risk and should not assume that DEIP funding is definite.

Question 20: If the EHR product used by a LTPAC providers/organization is unable to capture all the elements of the Common Clinical Data Set, can the provider/organization still apply to DEIP?

Answer: LTPAC provider/organizations will be eligible for DEIP funding as long as they are sending all common clinical data set elements that are available to be sent through the EHR. Since some EHRs used by LTPAC providers/organizations may not capture all data elements (such as Care Plans, Procedures, lab tests, lab results), the provider/organization will not be held responsible for these elements if they are not captured and able to be sent from the EHR. However, all other available data elements are expected to be sent for the provider/organization to qualify for DEIP.

Question 21: If a provider/organization is no longer in business when funding is available for DEIP, is the provider/organization still eligible to receive payment for completing program requirements?

Answer: Even if a provider/organization was previously approved for funding, a practice must meet the requirements of DEIP at the time when funding for DEIP becomes available and can be paid out to the provider/organization. If a practice/organization is no longer in business, they do not meet the organizational requirements of DEIP and are not able to accept Medicaid. In addition, a valid W9 is needed for the payout of each milestone.