

# healthcareupdate

## Health Information Technology Provisions of the American Recovery and Reinvestment Act of 2009

June 2009

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As part of its emphasis on health care, the American Recovery and Reinvestment Act of 2009 (ARRA) provides for improvements in health information technology (HIT) infrastructure and incentives to promote the nationwide electronic exchange of health information through the use of electronic health records (EHR). Of the \$787 billion in federal funding and tax cuts provided for in ARRA, approximately \$19 billion funds HIT infrastructure programs and Medicare and Medicaid incentives to encourage health care providers to electronically exchange patients' health information.

ARRA provides funding for the Office of the National Coordinator for Health Information Technology (ONCHIT), which was created within the Department of Health and Human Services in 2004 by Executive Order. By 2010, ONCHIT will update the Federal Health IT Strategic Plan (Strategic Plan) and adopt standards to govern HIT investments. Subject to the Strategic Plan, programs and entities eligible to receive funding to develop or improve HIT and the electronic exchange of EHR include the following:

**Medicare Incentives for the Use of HIT.** ARRA contains Medicare incentives for eligible hospitals to use HIT and certified EHR. Generally, eligible hospitals include all hospitals with the exception of psychiatric hospitals, rehabilitation hospitals, cancer treatment or research centers, children's hospitals, and hospitals with average inpatient stays of greater than 25 days. Eligible hospitals that are "meaningful users" of such technology may receive additional Medicare payments over a four-year period beginning in 2011. This incentive payment is

calculated as the sum of a base amount, \$2 million, added to a discharge related payment factor, which is then multiplied by the Medicare share. The discharge related payment factor is set at \$200 for each discharge paid under the inpatient prospective payment system starting with the 1,150th discharge and continuing through the 23,000th discharge. The Medicare share is calculated according to a formula based on the proportion of total inpatient bed days applicable to Medicare patients.

These incentive payments diminish over four years according to a transition schedule. An eligible hospital that becomes a meaningful user prior to 2013 will receive the full amount of the incentive payment in its first payment year, 75 percent in the second year, 50 percent in the third year, and 25 percent in the fourth year.

**Medicaid Incentives for the Use of HIT.** ARRA contains Medicaid incentives for acute care hospitals with at least 10 percent Medicaid patient volume, as well as children's hospitals of any Medicaid patient volume, that are meaningful EHR users. Each state is authorized to make payments to eligible hospitals to encourage the adoption and use of certified EHR technology. The total incentive payment made to an eligible hospital through Medicaid is capped at the product of the "overall hospital EHR amount," as determined for each hospital, and the Medicaid share. The Medicaid share is calculated according to a formula based on the proportion of total inpatient bed days applicable to Medicaid patients. The "overall hospital EHR amount" is approximately equal to the aggregate amount that would be payable over four

years under the Medicare incentive if all the hospital's patients were Medicare patients. States must spread the total incentive payment over at least three years, and may not pay more than 50 percent of the total amount of the incentive payment to a hospital in any single year, or more than 90 percent of the total amount in two years.

***State Grants to Promote HIT.*** ARRA provides for discretionary grants to states or qualified state-designated entities to conduct activities to provide technical assistance to implement EHR or enhance participation in EHR. To receive these discretionary grants, a qualified state-designated entity must satisfy the following requirements: be designated as eligible to receive grants by the state; be a non-profit entity with "broad stakeholder representation" on its Board of Directors; demonstrate that the use of HIT and EHR to improve health care quality is one of its principal goals; and adopt non-discrimination and conflict of interest policies. Qualified state-designated entities must submit an application and a plan that describes activities to be carried out to facilitate and expand EHR technology according to the standards adopted by ONCHIT and the Strategic Plan. States are required to match a portion of the federally granted funds. The required match increases for each year that funding is provided.

***Loans to Health Care Providers for EHR.*** ARRA provides for competitive grants to states for the development of loan programs to facilitate adoption of certified EHR technology. Under this program, states may receive federal funds to make loans to health care providers to purchase, upgrade, or enhance EHR technology, train personnel, and improve security of EHR. Any health care provider receiving a loan must agree to demonstrate that any EHR technology purchased or improved with loan funds is consistent with the standards adopted by ONCHIT. A loan recipient must also include a plan for ongoing maintenance and support of the EHR technology. Additionally, all loan recipients must submit reports on quality measures that will be adopted within

90 days of the enactment of ARRA. Under this program, states are required to match 20 percent of the federally granted funds. All health care providers are eligible to apply for state loan funds.

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