

eHealth Initiative Webinar Series American Recovery and Reinvestment Act

General Overview of the Act February 18, 2009

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eHealth Initiative Mission

- **Independent, non-profit** affiliated organizations based in Washington, D.C. – 501 c 3 and 501 c 6
- **Our mission is to improve the quality, safety, and efficiency of healthcare** through information and information technology

American Recovery and Reinvestment Act (H.R. 1)

- President Obama signed the American Recovery and Reinvestment Act into law yesterday in Denver, CO
- \$787 billion in new spending and tax cuts
- The Congress Budget Office estimates that the bill will pump \$185 billion into the economy in 2009 and \$399 billion next year

American Recovery and Reinvestment Act Passage

- Final joint House-Senate language passed the House on February 13th by a vote of 246-183, with no Republicans in support
- Passed the Senate on February 13th by a vote of 60-38, with only three moderate Republicans voting in support
- Signed into law on February 17th by the President

What Does the American Recovery and Reinvestment Act Look Like?

- \$2 billion in direct funding for health IT efforts, channeled through the Office of the National Coordinator
 - \$300 million reserved for supporting regional health information exchange efforts
 - \$20 million reserved for NIST for work on health care information enterprise integration
- Incentives through Medicare and Medicaid to providers and hospitals that adopt and use health IT systems
 - The Medicare and Medicaid incentive program, starting in 2011, will increase the deficit by \$29 billion through 2019. This includes the impact of Medicare penalties that kick in 2015
 - Implementation of health IT due to these incentives is expected to reduce federal spending by approximately \$12 billion
 - Total effect on federal deficit is approximately \$16-\$17 billion through 2019

What Does the American Recovery and Reinvestment Act Look Like?

- Other HIT and Related Funding
 - \$85 million for the Indian Health Service to use on health IT
 - \$1.5 billion for community health centers, a sum that can be used toward health IT acquisition
 - \$500 million for the Social Security Administration for processing disability and retirement workloads, of which up to \$40 million may be used for health IT research and adoption
 - \$1.1 billion to AHRQ, HHS, and the NIH for comparative effectiveness research

Office of the National Coordinator

Office of the National Coordinator Overview

1. Establishment and Purpose
2. Duties
 - Standards
 - HIT Policy Coordination
 - Strategic Plan
 - Website
 - Certification
 - Reports
 - Assistance
 - Governance of NHIN
3. Detail of Federal Employees
4. Chief Privacy Officer

Office of the National Coordinator Duties

- Standards
 - Review and determine (within 45 days) whether to endorse each standard, implementation specification, and certification criterion for electronic exchange and use of health information, that is recommended by HIT Standards Committee
 - Review Federal health IT investments to assure they are meeting objectives of strategic plan

Office of the National Coordinator Duties

- HIT Policy Coordination
 - Coordinate policy and programs to assure coordination, no duplication of effort, and alignment of capabilities
 - Leading member in establishment of HIT Policy Committee and HIT Standards Committee and serve as liaison between Committees and Federal government
 - Review and determine (within 45 days) whether to endorse each standard, implementation specification, and certification criterion for electronic exchange and use of health information, that is recommended by HIT Standards Committee
 - Review Federal health IT investments to assure they are meeting objectives of strategic plan

Office of the National Coordinator Duties

- Strategic Plan
 - Update the plan in consultation with other Federal agencies to address several key components (electronic exchange, use by 2014, privacy and security, specification of framework, engagement of public, use to support improvements, address unique needs)
 - Updated through collaboration of public and private sector
 - Measurable outcome goals
 - Published

Office of the National Coordinator Duties

- Website
 - Maintain and update to assure transparency
- Certification
 - In consultation with NIST, keep or recognize a program for voluntary certification of health IT in compliance with certification criteria
- Reports and Publications
 - Report on additional funding needed within 12 months
 - Implementation report of lessons learned
 - Assessment of impact on communities with disparities and uninsured, underinsured, and medically underserved areas
 - Evaluation of benefits and costs
 - Resource requirements

Office of the National Coordinator Duties

- Assistance
 - Financial assistance to consumer advocacy groups and not for profit entities that work in public interest to defray their costs of participation under National Technology Transfer Act
- Governance for Nationwide Health Information Network
 - Establish a governance mechanism for the NHIN

Office of the National Coordinator Chief Privacy Officer

- Secretary shall appoint a Chief Privacy Officer within 12 months
- Will reside within Office of National Coordinator
- Advise the National Coordinator on privacy, security, and data stewardship
- Coordinate with other federal agencies, state and regional efforts, foreign countries

HIT Policy Committee

- Application of FACA
- Recommend a policy framework for development and adoption of a nationwide health information technology infrastructure
- Recommend and prioritize areas in which standards, implementation specifications, and certification criteria are needed
- May consider making recommendations for appropriate use (population health uses)
- Forum for broad stakeholder input
- National Coordinator will take a leading position on establishment and operations

HIT Policy Committee

- Members are appointed (Secretary, Senate, House, President, Comptroller General), latter appointment of which is prescriptive regarding types of stakeholders and expertise
- Nothing in section shall be construed as prohibiting National eHealth Collaborative from modifying charter, duties, membership, structure or function to be consistent with section, so as to allow Secretary to recognize it as HIT Policy Committee

HIT Standards Committee

- Recommend to National Coordinator standards, implementation specifications, and certification criteria
- Will, as appropriate, provide for testing by NIST
- Forum for broad participation of stakeholders
- Within 90 days of enactment, develop a schedule for assessment of policy recommendations for HIT Policy Committee
- Open public meetings to enable public input
- National Coordinator will take a leading position on establishment and operations
- Prescriptive about types of stakeholders involved
- Balance among sectors

HIT Standards Committee

- Financial assistance by Secretary for membership fees or dues charged to consumer advocacy groups and non-profit entities
- Application of FACA
- Nothing in section shall be construed as prohibiting National eHealth Collaborative from modifying charter, duties, membership, structure or function to be consistent with section, so as to allow Secretary to recognize it as HIT Policy Committee

Federal Adoption of Standards

- Within 90 days Secretary will determine whether or not to propose adoption
- Notification in writing for non-adoption
- By 12/31/09 Secretary shall rule-making process shall adopt an initial set of standards, implementation specifications and certification criteria
- Can adopt previously adopted standards, implementation specifications and certification criteria
- Voluntary adoption by private sector entities

Federal Health Information Technology

- National Coordinator shall support the development and updating of quality EHR technology unless Secretary determines through an assessment that the needs and demands of providers are being substantially and adequately met through marketplace
- May impose a nominal fee

Testing of Health IT

- Pilot testing of standards and implementation specifications by NIST in coordination with HIT Standards Committee
- NIST shall support establishment of conformance testing infrastructure
- This may include a program to accredit independent, non-Federal laboratories to perform testing

Research and Development Programs

- NIST in consultation with National Science Foundation shall establish a program of assistance to institutions of higher education to establish multi-disciplinary Centers for Health Care Information Enterprise Integration
- National Information Technology Research and Development Program

Grants and Loans

- Secretary shall invest through different agencies with expertise (ONC, HRSA, AHRQ, CMS, CDC, IHS)
- Covers health IT architecture, EHR adoption, training and dissemination of best practices, etc.

State Grants (required)

- Established through the National Coordinator
- Planning and implementation grants
- Targeted to states or qualified state-designated entities (not for profit)
- Principal goal is to improve health care through exchange and use of health information)
- Required matches beginning in 2011

Grants to States and Indian Tribes for Loan Programs (optional)

- Provides competitive grants to states and Indian Tribes
- Entities receiving grants use the money to create loan programs to support provider adoption of EHRs
- Enables use of private sector contributions

Education Assistance

- Establish or expand medical informatics education programs
- Award grants to support the creation of demonstration projects to integrate electronic health records into the clinical education of health professionals

Implementation Assistance

- Health IT Extension Program
 - Created to provide assistance to providers in adopting, implementing and using EHRs
- Health IT Research Center
 - Created to provide technical assistance and develop or recognize best practices to support and accelerate efforts to adopt, implement, and use EHRs
- Health IT Regional Extension Centers
 - Will provide technical assistance and disseminate best practices (affiliated with non-profit organizations) to support public/not-for-profit hospitals, federally qualified health centers, rural/underserved, individual or small group practices

Key Elements

Medicare Incentives for Professionals

Year	Maximum Benefit per Provider using EHR	Total Payment Reduction for Not Using EHR
First Year	\$15,000 (If 2011 or 2012, \$18,000)	0%
Second Year	\$12,000	0%
Third Year	\$8,000	0%
Fourth Year	\$4,000	0%
Fifth Year	\$2,000	2015: 1% (in some cases, 2%)
Sixth Year	0	2016: 2%
2017	0	2017: 3%
Beyond	0	Beyond: 3% (or more)

Key Elements

Medicare Incentives for Professionals

- If physicians are using a qualified EHR in 2011 or 2012, they can receive up to \$44,000 through Medicare
- Physicians practicing in “health professional shortage areas” can receive a 10% additional payment, for a total of \$48,400
- Applies to all physicians who can prove use of a qualified EHR, regardless of purchase date
- Meaningful EHR User
 - Using certified EHR technology to the Secretary’s satisfaction
 - Demonstrates information exchange
 - Reports clinical quality measures

Key Elements

Medicare Incentives for Hospitals

- Hospitals can receive up to \$16 million over four years if they are using health IT starting in 2011
- Hospitals can annually receive payments based on:
 - Initial amount of \$2 million, plus
 - a \$200 per-discharge payment for a hospital's 1,149th through 23,000th discharges (all discharges)
- Paid only a pro-rated amount of the total based on Medicare share and transition factor
- Complex formula
- Phased out over four years
- Medicare Payments reduced for non-users beginning in 2015

Key Elements Medicaid Program

- Pays states to provide health IT Medicaid incentive payments to supports costs incurred by Medicaid providers when acquiring, implementing and maintaining EHRs.
- Potential recipients include:
 - Eligible professionals
 - Federally qualified health centers
 - Rural health clinics
 - Children’s hospitals
 - Non-hospital-based pediatricians
 - Certain acute care hospitals

Key Elements Privacy Provisions

- Privacy and security provisions extended to business associates both directly and through contracts
- Notification of breach
- Education on health information privacy
- Honor requests from individuals to withhold PHI from a health plan if individual pays for medical care out of pocket in full
- Limit protected health information contained in disclosures when possible
- Enables patients to request an audit trail

Key Elements Privacy Provisions

- Places prohibitions on sale of protected health information
- Patient authorization required for marketing and fundraising activities
- Business associate contracts required for new groups, including health information exchanges
- Civil penalties increased through four tiers, according to severity of violation
- Enforcement through state attorneys general

Questions and Discussion

Upcoming Stimulus Webinars

- **Standards and Policy**
February 19, 2009, 4:00 – 5:00 p.m. EST
- **Grant and Loan Programs, Technical Assistance**
February 20, 2009, 12:00 – 1:00 p.m. EST
- **Privacy Provisions**
February 23, 2009, 11:00 a.m. – 12:00 p.m. EST
- **Medicare Incentives for Health Care Professionals**
February 23, 2009, 5:00 – 6:00 p.m. EST
- **Medicare Incentives for Hospitals**
February 25, 2009, 12:00 – 1:00 p.m. EST
- **Medicaid Incentives**
February 27, 2009, 11:00 a.m. – 12:00 p.m. EST

More Details

- Register for upcoming webinars at:
<http://ehealthinitiative.org/events/webinarStimulus.msp>
- Questions? Contact Brian Wagner at
Brian.Wagner@ehealthinitiative.org.