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Stimulus 101: The \$19 billion health-care IT giveaway and how your practice can benefit

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When President Barack Obama signed the American Recovery & Reinvestment Act on Feb. 17, he did more than try to stimulate the lagging U.S. economy. By signing the "stimulus bill" into law, the president paved the way to providing every physician in America an affordable means to enter the digital era of medicine by implementing an electronic health record.

The health-IT component of the legislation - the HITECH Act - appropriates \$19 billion to encourage health-care organizations to adopt and effectively utilize electronic health records (EHR) and establish regional health-information exchange networks.

The law represents an opportunity for health-care providers. After decades of slow but steady progress toward converting our paper-based record system into an electronic one, we are taking a monumental leap forward. The Congressional Budget Office predicts that in a matter of just a few years, 90 percent of physicians and 70 percent of hospitals will be using EHR. As a result, the country will save billions of dollars on the provision of health care, and patients will receive better-informed care from a coordinated network of providers.

But just what does the new law mean for physician groups? How can you take advantage of the billions in new funding that will be available as early as 2011? And what will happen if you fail to seize the opportunity presented by the new law?

Details of the \$19 billion

The HITECH Act can be broken down into two sections. One provides \$2 billion immediately to the Department of Health & Human Services (HHS) and its sub-agency, the Office of the National Coordinator for Health IT. The second sets aside \$17 billion for health-care providers who can demonstrate their use of a certified EHR.

In the law's first section, the secretary of HHS is directed to spend \$300 million of the \$2 billion fund to establish more health information exchange (HIE) initiatives across the country, as well as helping existing HIEs to progress in connecting providers electronically. Additionally, the act allocates \$20 million to ensure that health-information standards are consistent in all settings.

Beyond those guidelines, the act does not assign specific dollar amounts to other programs. The HHS secretary will announce how the remaining funds will be allocated by late spring. Areas singled out for investment include:

- further developing standards related to interoperability and privacy
- building infrastructure for the advances of telemedicine
- expanding health IT in public health departments
- establishing a Health IT Research Center and regional Health IT Extension Centers to provide information to health-care providers on best practices, vendor selection, implementation, training, etc.

-providing funding for federal grants via the Agency for Healthcare Research and Quality, Health Resources and Services Administration, Centers for Medicare and Medicaid Services, and the Centers for Disease Control and Prevention, as well as grants to states and state-designees that will help health-care organizations with upfront funding for EHRs

The second part of the act calls for \$17 billion in incentive payments to physicians and hospitals. The government is focused on two primary goals in this legislation - first, moving physicians who have been slow to adopt EHRs to a computerized environment, and secondly, ensuring that patient data no longer sits in silos but instead is actively exchanged between providers to ensure that patients receive informed care.

The majority of the funds within the HITECH Act are for payments that will reward physicians and hospitals for effectively using a robust, connected EHR system. There is a program designed for those who see large volumes of Medicaid patients, and another for those who accept Medicare. And in order to qualify for the incentive payments, both physicians and hospitals have to demonstrate "meaningful use" of an EHR by proving three things:

- Use of an EHR with e-prescribing capability that meets current HHS standards
- Connectivity to other providers to improve access to the full view of a patient's health history
- Ability to report on their use of the technology to HHS

Importantly, because the government wants to spur quick action, all of the incentives include payments for up to five years, but provide the largest payments early in the program. The incentive payments begin in 2011 to ensure providers have time to adopt and learn to use the EHR. Physicians who fail to adopt an EHR will eventually be penalized through lower Medicare and Medicaid payments. The penalties begin in 2015.

Specifics of the physician opportunity

There are two separate incentive programs for physicians -- one provided by Medicare and another by Medicaid.

-Medicaid: If more than 30 percent of a physician's patients pay with Medicaid (20 percent for pediatricians), then they are eligible for payments of up to \$64,000 over five years. The incentives will be calculated through a formula that factors in the exact Medicaid mix of their patients, as well as amounts ranging from \$25,000 in the first year to \$10,000 in subsequent years. Additionally, nurse practitioners and nurse midwives are eligible for the same incentives.

-Medicare: Physicians who do not have a large Medicaid volume, but do accept Medicare can earn up to \$44,000 over the five years. Additionally, physicians operating in a "provider shortage area" will be eligible for an incremental increase of 10 percent, though those delivering care entirely in a hospital environment, such as anesthesiologists and pathologists, are not eligible for any incentives.

-Fee reductions: Providers who do not demonstrate meaningful use of an EHR by the end of 2014 will see, in their 2015 fee schedules from Medicare, a decrease of 1 percent. An additional decrease will be implemented in 2016 and 2017 down to a total of 97 percent of the regular fee schedule. The Secretary of HHS can reduce the fee schedule even further, by a maximum of 5 percent beginning in 2018, if the nationwide EHR adoption rate remains below 75 percent.

Standards, certification, and privacy expansion

The Secretary of HHS is required by the Act to review all existing standards, determine the initial set of standards that will apply to the "meaningful use" criteria for product certification, and implementation specifications. All of this must be completed before the end of 2009.

Finally, as part of the HITECH Act, a strong emphasis was placed on further protecting patient health information under federal privacy and security laws (HIPAA). Primary changes included defining which actions constitute a breach (including some inadvertent disclosures); imposing restrictions on certain disclosures, sales, and marketing of protected health information; requiring an accounting of disclosures to a patient upon request; authorizing increased civil monetary penalties for HIPAA violations; and granting authority to state attorneys general to enforce HIPAA violations.

What's the bottom line for physician groups? Industry experts agree that, to gain maximum financial incentives, groups need to begin planning the rollout of EHR systems as soon as possible. While many of the details of the law remain to be worked out - including the complete definition of "meaningful electronic health records" - providers can't afford to wait for all the details to be ironed out before moving forward. To gain the maximum amount of Medicare and Medicaid incentives, physician groups must have a qualifying records system in place by 2011. Bottom line: If you want to be at the front of the line to collect those incentive payments and move your practice onto the electronic health-care highway, the time to start driving is now.

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