



American Recovery and Reinvestment Act of 2009 HITECH Act for Healthcare

Frequently-Asked Questions

February 27, 2009

The American Recovery and Reinvestment Act of 2009, commonly known as the “Economic Stimulus Package”, is a comprehensive package for economic recovery in the United States. The final package of \$787 billion was signed into law by President Barack Obama on February 17, 2009.

This document answers many of the frequently-asked questions that you may have about the impact of the stimulus package on your organization. As additional information becomes available, these FAQs will be updated.

1. What are the Health IT provisions in the bill?

While there are many details yet to be resolved, the broader stimulus bill includes a package of approximately \$31.2 billion for healthcare infrastructure and EHR investment, and this legislation is expected to impact providers and vendors quickly. The \$31.2 billion is the gross investment, with the Congressional Budget Office assumption that the program will save an estimated \$12 billion over a ten year period, resulting in a net cost to the federal government of \$19.2 billion. This portion of the bill is collectively known as the “HITECH Act”.

The goals of the legislation are to create and expand the current U.S. healthcare IT infrastructure, promote electronic data exchange, and substantially and rapidly increase EHR adoption to 90 percent for physicians and 70 percent for hospitals by 2019. Initial spending will begin in 2009 and is projected to increase considerably in 2010 and 2011.

The final text of the legislation signed by the President is available at:
http://www.whitehouse.gov/the_press_office/arra_public_review

HIMSS has published a summary of the bill from an HIT perspective – this document is recommended reading and is available at: <http://www.himss.org/content/files/HIMSSSummaryOfARRA.pdf>



2. How is the \$19.2 billion for the HITECH Act allocated?

There is approximately \$2 billion that will be spent between 2009 and 2013 by the Secretary of Health & Human Services (HHS Secretary) through the Office of the National Coordinator for Health IT (ONC). This money, focused on creating an HIT infrastructure, will be used to support ONC policy and standards efforts, "immediate funding" through federal agencies, grants to states, a state loan program for provider EHR purchase, training, and technical support.

In addition, the federal government projects that it will spend a net amount of \$17.2 billion for Medicare and Medicaid incentives that will be available to providers (physicians and hospitals) meeting specified criteria (*See Questions 5 and 6*). The actual incentive dollars available through this program are approximately \$29.2 billion, as the \$17.2 figure is net of estimated federal program savings from increased EHR adoption.

3. What incentive options are available to assist in EHR adoption?

The HITECH Act specifies incentive payments from two federal programs: Medicare and Medicaid. Physicians and other eligible healthcare professionals may apply for incentive payments from only one of the programs, while hospitals may receive incentive payments from both programs. Both the Medicare and Medicaid incentive programs require that the provider demonstrate "meaningful use" of a certified EHR product.

4. What incentive payments are available to physicians through the Medicare program?

Starting in 2011, physicians are eligible to receive Medicare incentive payments for being a "meaningful user of a certified EHR" (*see Questions 5 and 6 for definitions*).

These incentive payments are calculated on a per physician basis. The proposed payments are greatest in the first year, decreasing in amount for the following four years or until 2016, depending on the incentive program.

Physicians who do not meet the "meaningful user" criteria will face penalties, calculated as a percentage of allowed charges, beginning in 2015 with a one percent penalty. These penalties increase each year up to a maximum potential cap of five percent per year for 2017 and beyond.

Medicare incentives will not be paid to hospital-based professionals, such as emergency physicians, anesthesiologists or pathologists.

5. What is the definition of "meaningful use" or "meaningful user"?

Language in the HITECH Act requires physicians to demonstrate "meaningful use" of a qualified, certified EHR.

A qualified EHR is defined as an electronic record of health-related information for individuals, with:



- Inclusion of patient demographic and clinical health information, such as medical history and problem lists
- The capacity to provide clinical decision support
- Support for physician order entry
- The ability to capture and query information relevant to healthcare quality
- Electronic health information exchange capabilities, including the ability to integrate such information from other sources into the EHR

GE offers EHR solutions that currently offer these capabilities. As the definitions of "qualified", "certified", and "meaningful use" are further defined by the federal government, GE will monitor the implications for our products and the impact on our customers, and respond appropriately.

To be eligible for incentive payments, physicians must also demonstrate that they are using such an EHR in a "meaningful manner" through:

1. Use of electronic prescribing;
2. Electronic exchange of health information, such as with health information exchange (HIE); and
3. Quality reporting

In other words, qualification for incentives focuses on what is done with the EHR, not simply having an EHR.

Language in the bill indicates that definitions of meaningful use will become more stringent over time.

As ePrescribing, HIE and quality reporting definitions are more specifically laid out by the HHS Secretary, GE will monitor the implications for our products and the impact on our customers.

6. What is "Certified EHR technology," as defined within the bill?

"Certified EHR technology" means a qualified EHR that is certified as meeting standards pursuant to the HITECH Act. The Act created an HIT Standards Committee, which will develop or recognize standards and certification criteria for recommendation to the ONC for endorsement and adoption by the HHS Secretary via regulation.

The future status of existing bodies that certify EHRs and "harmonize" standards, namely the Certification Commission for Healthcare Information Technology (CCHITSM) and the Healthcare Information Technology Standards Panel (HITSP), will be determined by HHS and ONC.

Specifics of the operations and approach of these existing bodies will certainly change as a result of provisions in the stimulus bill. For example, the work of HITSP would flow through the newly-created HIT Standards Committee. As part of this process, the ONC may "keep or recognize" certification programs, such as CCHIT, however, the final certification criteria will be established by the HHS Secretary by regulation.

The HHS Secretary will issue an initial set of standards, implementation specifications, and certification requirements by December 31, 2009. These standards, specifications, and requirements will play an important role in determining the certification requirements for certified EHRs.



GE offers electronic health record solutions that currently meet CCHIT certification standards, and we will continue to monitor the definition of “certified EHR” technology as it is determined by the HHS Secretary.

7. What does this mean for current Centricity customers?

Customers will be eligible to take advantage of the HITECH Act incentives by utilizing an EHR certified to meet the standards specified by expected HHS regulations and by complying with the “meaningful use” requirements to be specified by the HHS Secretary. The GE Centricity EMR meets current ONC-recognized certification requirements.

8. What are the implications of the increased focus on health information exchange (HIE) and connectivity capabilities?

Approximately \$300 million of the initial \$2 billion in funding for ONC is to be spent on efforts to support regional and sub-national efforts towards health information exchange.

GE’s Centricity HIE Services solution is currently available and enables the exchange of document-based electronic health information via a secure, standards-based infrastructure. The solution connects to Centricity EMR, in addition to other sources of clinical information.

The specific ways in which providers will need to adopt an EHR with HIE capabilities in order to qualify for incentives will be defined by the HHS Secretary.

9. How do the Medicare incentives break down for the individual physician?

Based on the language in the HITECH Act, Medicare incentives for physicians who first become eligible for such incentives via “meaningful use” are detailed below. The greatest first year and total incentives are available for those who first become eligible in 2011 or 2012.

Selection, implementation and adoption of an EHR takes time; to take advantage of the maximum amount of incentive, practices will have to formulate plans quickly.

Stimulus Medicare Incentives, per Physician							
Pay-Out Year							
Starting Year	2011	2012	2013	2014	2015	2016	Totals
2011	\$18,000	\$12,000	\$8,000	\$4,000	\$2,000	\$0	\$44,000
2012		\$18,000	\$12,000	\$8,000	\$4,000	\$2,000	\$44,000
2013			\$15,000	\$12,000	\$8,000	\$4,000	\$39,000
2014				\$12,000	\$8,000	\$4,000	\$24,000
2015					\$0	\$0	\$0

Penalties for lack of “meaningful use” of a certified EHR begin during 2015, based on the provider’s EHR adoption and use during 2014, or a reporting period during that year as determined by the Secretary. To estimate the penalty that may apply to your practice if you are not using an EHR (in a way that meets the “meaningful use” definition) by 2015, take your estimated Medicare allowables for a given year and multiply by the percentage penalty for that year.



10. What incentive payments are available to physicians through the Medicaid program?

The Medicaid incentive program is targeted at physicians with a relatively large Medicaid volume. Eligible physicians will need to choose either the Medicare or the Medicaid incentives. Between 2011 and 2016, physicians can begin to receive six years of Medicaid incentive payments, up to a maximum of \$63,750. Payment in the initial year can be up to \$21,250 for demonstrated adoption, implementation, or upgrade of a certified EHR. The physician can then receive up to \$8,500 per year over five years for demonstrating “meaningful use” of the EHR. These payments will be based on 85 percent of average allowable costs, as defined by the HHS Secretary. Any non-government financial support received for the applicable EHR purchase or operation will be deducted from this payment.

Physicians will qualify for Medicaid incentives if they are:

- Non-hospital based providers with 30 percent Medicaid volume
- Pediatricians with 20-30percent Medicaid patients (eligible for up to \$42,500 over six years)
- Professionals in Federally Qualified Health Clinics (FQHCs) or rural clinics with 30 percent “needy patient” volume (See Question 14)

11. What is the impact of the HITECH Act for hospitals?

Unlike physicians, hospitals are eligible for both Medicare and Medicaid incentives. As with physicians, hospitals will be eligible for incentives starting in 2011 for meaningful use of a qualified, certified EHR. The formula is a bit complicated: a base amount of \$2 million per year, per hospital (*not* IDN), adjusted up based on volume of discharges and adjusted down based on the extent to which the hospital’s Medicare share of total volume (excluding charity care) is less than 100 percent. The adjusted base amount is then paid at a declining percentage (75, 50, and 25 percent) over three additional years. Full payment is available for those hospitals that become eligible in 2011-2013.

The table below shows how Medicare incentives would work for a hospital with 10,000 annual discharges, 30 percent Medicare volume, and 10 percent charity care, depending on the starting year of incentive eligibility. Medicaid payments would be added to this amount, based on a formula similar to that used for Medicare, but focused on Medicaid volume share. At state discretion, the Medicaid hospital payout schedule can be different than that for Medicare.

Stimulus Medicare Incentives, per Hospital (Example only, per numerical assumptions above)							
Pay-Out Year							
Start Date	2011	2012	2013	2014	2015	2016	Totals
2011	\$1,256,733	\$942,550	\$628,367	\$314,183	\$0	\$0	\$3,143,844
2012		\$1,256,733	\$942,550	\$628,367	\$314,183	\$0	\$3,143,845
2013			\$1,256,733	\$942,550	\$628,367	\$314,183	\$3,143,846
2014				\$942,550	\$628,367	\$314,183	\$1,887,114
2015					\$628,367	\$314,183	\$944,565

The maximum Medicare and Medicaid incentives that will be paid to hospitals are estimated at \$11 million, with more typical total payments of \$6-8 million.



Critical Access Hospitals will be eligible for a cost-based bonus.

12. What additional stimulus funding pertains to healthcare IT, beyond HITECH?

- \$1.1 billion for comparative effectiveness research, which will be enhanced by greater adoption of EHR
- \$1.5 billion for renovation and repair of community health centers and for the acquisition of health IT systems
- \$500 million in grant funds for services provided by community health centers
- \$85 million for health IT within Indian Health Service facilities
- \$4.7 billion for the National Telecommunications and Information Administration's Broadband Technology Opportunities Program

13. What will the criteria be to meet the "quality outcomes reporting" requirement for EMR adoption?

The specific criteria will be defined by the HHS Secretary. There are several initiatives around quality outcomes reporting in place today, including:

- The Centers for Medicare and Medicaid Services (CMS) Physician Quality Reporting Initiative (PQRI), which is a voluntary program that provides financial incentives (two percent of allowed charges) to physicians who successfully report on a specified set of quality measures for the services that they provide to patients under the Medicare Physician Fee Schedule. It was made permanent by the Medicare Improvements for Patients and Providers Act (MIPPA) legislation enacted in July 2008.
- In partnership with the American Diabetes Association (ADA), the National Committee for Quality Assurance (NCQA) developed the Diabetes Physicians Recognition Program (DPRP). This voluntary program is designed to recognize physicians, who use evidence-based measures and provide excellent care to their patients with diabetes.

GE's Centricity EMR was the first EMR product to be certified by the NCQA for the Diabetes Physicians Recognition Program. This certification enables quick and easy enrollment into this quality outcomes reporting program and demonstrates GE's commitment to quality improvement initiatives.

In addition, GE provides a unique combination of Centricity EMR and the Medical Quality Improvement Consortium (MQIC) registry function for participation in the PQRI program, allowing quality reporting based on EHR data rather than claims data.

Not only do these tools allow for pay for performance readiness, they also allow a physician, clinic, or enterprise setting to utilize benchmarking tools to track progress in the delivery of care.

14. How will the Privacy and Security section of the HITECH Act impact hospitals and healthcare providers?

The stimulus bill increases regulatory requirements by expanding the privacy and security provisions and penalties to business associates within the Health Insurance Portability and Accessibility Act (HIPAA). The new language requires covered entities to notify patients of a security breach, and requires vendors that



have access to patient health information (PHI) to enter into a Business Associate Agreement. Below is a brief overview of the covered entity's requirements:

- Provide patients with a report of all disclosures made through the EHR, from three years of the request (compliance dates vary depending on date of EHR adoption);
- Comply with a patient's request to withhold PHI from a health plan if the patient is self-pay;
- Limit the disclosure of PHI to a limited data set, or to the minimum necessary to fulfill an intended purpose (as defined under HIPAA);
- Obtain patient authorization, before using PHI for marketing purposes and receiving payment;
- Employees and other individuals who access, use, or disclose PHI without authorization shall be subject to criminal penalties; and
- Civil penalties for violations under HIPAA vary (a tiered approach) depending on the specific conduct.

15. What is the role of the Office of the National Coordinator of Health Information Technology (ONC)?

Along with the Health and Human Services Secretary, the National Coordinator will have substantial authority and control over the HIT provisions in the HITECH Act and in further defining key areas of the bill for implementation. ONC will provide increased federal direction in standards and certification.

The National Coordinator is responsible for endorsing technology standards and certification requirements for adoption by the Secretary and for implementing various privacy and security provisions. Initial standards and certification requirements are to be issued by regulation by December 31, 2009.

ONC will also appoint a Chief Privacy Officer to oversee multiple changes to the HIPAA privacy and security provisions that are included in the bill.

16. What are the details of the funding available for Community Health Centers?

Within the stimulus bill, Federally-Qualified Health Center (FQHC) providers are specifically listed as eligible to receive Medicaid payments for the adoption and use of certified EHRs. In order to qualify for these payments, the law states that at least 30 percent of patients served by the FQHC provider must be defined as "needy individuals."

For details including the definition of "needy individuals", see the FAQs published by the National Association of Community Health Centers:

<http://www.nachc.org/client/documents/NACHC%20ARRA%20FAQ.pdf>

Community Health Centers are also likely to be eligible for some of the funds which are "immediately available" from the Department of Health and Human Services' Office of the National Coordinator for Health Information Technology through the Health Resources and Services Administration. The specific funds available are still to be determined. In addition, there will be HIT technical assistance focused on Community Health Centers. Finally, as mentioned in Question 11, there will be \$1.5 billion dollars available to CHCs for renovation and repair of community health centers and for the acquisition of health IT systems

17. How will the \$2 billion in immediate appropriations for ONC be distributed?

Two billion dollars have been allocated to the Office of the National Coordinator for Health Information Technology (ONC) for use between 2009 and 2013. These funds are to be spent on the infrastructure necessary to allow for, and to promote, the electronic exchange and use of health information for each



individual in the United States. This money will also be used to support the ONC policy and standards efforts, "immediate funding" through federal agencies, grants to states, a state loan program for provider EHR purchase, training, and technical support for providers. At least \$300 million of this amount is to be spent on regional or sub-national health information exchange.

18. Did GE Healthcare have a role in shaping the stimulus package?

Yes. GE drew on its extensive background in healthcare IT products, policy, and standards to formulate policy positions focused on achieving high levels of EHR adoption, a continued public/private approach to standards and certification, and appropriate security and privacy provisions.

GE government relations leaders were engaged actively in providing information and advocacy perspectives throughout the congressional consideration of the groundbreaking legislation, directly and through industry organizations. In addition, GE interacted with the Obama Administration's Transition Team and the Obama Administration as the provision was crafted and enacted into law.

As members of the Electronic Record Health Association (EHRA), a team of GE Healthcare government relations experts have participated in ongoing policy deliberations, partnering with other industry members to present recommendations and advocate as work on the stimulus package progressed, right up until its final passage.

In addition, GE team members are actively engaged with the certifying and standards-setting bodies that may play a critical role in defining what is required in the EHR to enable provider organizations to take advantage of the HITECH Act incentives.

19. What is GE's involvement in these certifying and standards-setting groups?

FEDERAL

Health Information Technology & Standards Panel (HITSP)

- Board Member, 3 Co-Chairs

Certification Committee for Healthcare Information Technology (CCHIT)

- 2 Members, 3 Workgroup Members

National Health Information Network (NHIN)

- 3 NHIN Phase 1 Projects

STANDARDS

Integrating the Healthcare Enterprise (IHE)

- 5 Co-Chairs, 10 Members

Health Level 7 (HL7)

-2 Co-Chairs, 14 Members

STATE

Massachusetts Health Data Consortium

- CIO Forum Member

New York eHealth Collaborative

- Policy & Operations Committee

CareSpark

- Vendor Consortium



INDUSTRY

Electronic Health Records Association (EHRA)

- Executive Committee Member, Government Relations Committee Members

Healthcare Information Management Systems Society (HIMSS)

- Diamond Member

VistA Software Alliance

- Board Member

POLICY

Center for Health Transformation (CHT)

- Charter Member

eHealth Initiative

- Board Member

Connecting for Health (Markle Foundation)

- Steering Committee

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