



Understanding the HITECH Act: The Stimulus Bill, EHR and You

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On February 17, 2009, President Obama signed the **American Recovery and Investment Act of 2009**. The **HITECH** (Health Information Technology for Economic and Clinical Health) Act is part of this legislation and is designed to encourage physicians and other healthcare organizations to adopt and use (in a meaningful way) Electronic Health Records (EHR).

The HITECH Act will be administered by the Office of the National Coordinator for Health Information Technology (ONC) and appropriates **\$19.2 Billion** dollars, most of which will be used as incentive money for hospitals and physicians who adopt Electronic Health Records. The incentive payments are structured in a way that rewards early adopters and ultimately penalizes those physicians who have not implemented an EHR by reducing their Medicare payments beginning in 2015.

Incentive funds will be distributed through both Medicare and Medicaid to physicians and hospitals who are “**meaningful EHR users.**” Physicians will be able to choose program participation through either Medicare or Medicaid but can participate in only one of the programs, not both.

According to the CMS website, the criteria for incentives are still under development but the HITECH Act specifically states that the following conditions for meaningful use must be met:

1. The EHR must use certified technology;
2. The EHR must include ePrescribing;
3. The EHR must allow for the “electronic exchange of health information to improve the quality of health care”;
4. The EHR must be able to submit clinical quality measures to HHS.

The Medicare Program:

- The Recovery Act established financial incentives beginning in January 2011 for eligible professionals who are meaningful EHR users;

- The incentive payment is equal to 75 percent of Medicare allowable charges for covered services furnished by the physician in a year subject to maximum payments each year as follows:
First year - \$15,000
Second year - \$12,000
Third year - \$8,000
Fourth year - \$4,000
Fifth year - \$2,000
- For early adopters whose first payment year is 2011 or 2012, the maximum payment is \$18,000 the first year. What this means is that only early adopters are eligible to receive the maximum per physician incentive total of \$44,000. Those physicians who show meaningful use beginning in 2013 are eligible for a maximum of \$39,000 per physicians; those who show meaningful use in 2014 are eligible for a maximum of \$24,000 per physician; and those who show meaningful use beginning in 2015 or later will not be eligible for incentive payments.
- Providers who do not show “meaningful use” of an EHR by 2014 will see a reduction in their Medicare payments beginning in 2015 as follows:
2015 – 1% reduction
2016 – 2 % reduction
2017 – 3% reduction
Subsequent years – 3 to 5 percent

The Medicaid Program:

- To be eligible to receive incentive payments from Medicaid, eligible professionals must demonstrate that a minimum of 30 percent (20 percent for pediatricians) of their patients are covered by Medicaid.
- Since Medicaid is administered by the states, the criteria will vary among states. However, the requirements must be acceptable to the Secretary of HHS and aligned with the ones used by Medicare.
- Eligible professionals can receive up to 85 percent of the net average allowable costs for certified EHR technology, including training and support up to a total of \$64,000 in payments over 5 years. First year costs are applied to the purchase, installation and training of the certified EHR system.
- Incentive payments are available as follows:
First Year - \$25,000
Second Year - \$10,000
Third Year - \$10,000
Fourth Year - \$10,000
Fifth Year - \$10,000
- Unlike Medicare, payments for adoption do not decrease based on the year the EHR is initially adopted. Therefore, an eligible professional who adopts by 2015 will be eligible for the same yearly incentive payments as outlined above for a maximum of \$64,000.
- There is no Medicaid reimbursement penalty for not adopting an EHR after 2016.

You will note in the descriptions of each of the programs above, the words “**eligible**,” “**maximum**,” and “**up to**” are used frequently. Physician practices must factor those words into their decision-making process in terms of how much of an incentive these programs actually are and how much incentive money for which they might actually be eligible.

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