

## *Obama Signs HITECH Act for Healthcare IT*

On February 17, 2009, as part of the American Recovery and Reinvestment Act of 2009, President Obama signed the Health Information Technology for Economic and Clinical Health (HITECH) Act, providing over \$19 billion, including \$2 billion in discretionary funds<sup>1</sup> to spur the widespread adoption of Electronic Health Record (EHR) usage in the US healthcare system.

The Act officially established the Office of the National Coordinator for Health Information Technology (ONCHIT) and HIT Policy and Standards Committees to recommend, develop, and promote a national HIT infrastructure.<sup>2</sup> The Act has several incentives and penalties incurred by the successful or unsuccessful adoption of “meaningful use” of certified EHR systems. Although the term “meaningful use” has yet to be defined, it would include electronic prescribing; information exchange between systems; qualitative reporting methods; additional coding of the use of and EHR system; and, the ability to complete survey responses in the system.<sup>3</sup> ONCHIT would set standards for electronic health records systems for the hospital setting and the Certification Commission for Health Information Technology would certify software meeting this definition. In 2011, funding will become available for Medicare (\$23.1 billion) and Medicaid (\$21.6 billion) incentives.<sup>4</sup>

Under the Act, non-hospital based physicians will receive financial incentives or penalties through Medicare for use or non-use of EHRs. Beginning in 2011, eligible professionals can receive incentive payments of seventy-five percent [75%] of allowed Medicare charges to a total maximum of \$44,000 over a five-year period if meaningful use of an EHR system begins by 2012.<sup>5</sup> Adoption by 2013 reduces the total maximum charges to \$39,000 and adoption by 2014 reduces the total maximum charges to \$24,000.<sup>6</sup> Beginning in 2015, practitioners not adopting meaningful EHR use will receive a one percent reduction in their Medicare fee schedule payment.<sup>7</sup> This will increase to a two percent penalty in 2016 and three percent penalty in 2017. The Secretary of HHS will have the discretion, if less than seventy-five [75%] of practitioners have not adopted meaningful use of EHRs before 2018, to raise the penalty to as high as five percent. Medicaid providers will also receive incentives.<sup>8</sup>

A total of \$1.5 billion will go toward federal grants for the implementation of EHR systems and capital improvements of EHR systems.<sup>9</sup> In 2011 for every ten dollars the federal government provides toward state planning and implementation Grants to Promote HIT, the state must provide one dollar. In 2012 this ratio drops to seven to one. For 2013 and beyond for every three dollars of federal grant money the state must provide one dollar.<sup>10</sup>

Senator John Rockefeller has proposed legislation that will build upon the HITECH Act. Rockefeller’s Health Information Technology (IT) Public Utility Act of 2009 will form a federal Health Information Technology Public Utility Board that will work with open source developers and user groups to incorporate improvements and innovation in EHR software, ensure interoperability between the systems, develop quality and performance assessment modules, and integrate the systems into the Medicaid and CHIP billing processes.<sup>11</sup> The board will also oversee the creation of a universal child-specific health record to be used with federal children’s health programs. Open-source EHR software has successfully been implemented by the Department of Veterans Affairs, Indian Health Service, and several other providers.<sup>12</sup> This program would also assist rural and other smaller providers who might not have the financial ability to implement an EHR system despite the financial incentives provided under the HITECH Act and protect them from the eventual penalties for not adopting EHR technology.<sup>13</sup>

The bill is expected to foster EHR adoption across the country and improve coordination of care. The American Hospital Association (AHA) applauded the Act as its focus on providing incentives for the widespread EHR adoption will increase patient safety, reduce errors, and improve patient care. Further, the AHA supports the establishment of a national committee to set the EHR standards necessary for interoperable health records.<sup>14</sup>

<sup>1</sup> 74 FR 101, pg. 25550-25552. May 28, 2009.

<sup>2</sup> “American Recovery and Reinvestment Act of 2009” American Medical Association. June 1, 2009.

<sup>3</sup> “HIT Incentives and State Grant Opportunities – American Recovery and Reinvestment Act of 2009.” By the Rural Health Resource Center. (change cite to actual statute location)

<sup>4</sup> “Summary of HHS Recovery Operational Plan, May 2009” HIMSS,

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- <http://www.himss.org/content/output/A99BCB56C33E4E41B76896C29F350300.pdf> (Accessed 6/3/09), p.3.
- <sup>5</sup> American Recovery and Reinvestment Act of 2009. Title IV – Medicare and Medicaid Health Information Technology; Miscellaneous Medicare Provisions. Section 4101(a). pg. 353-5.
- <sup>6</sup> American Recovery and Reinvestment Act of 2009. Title IV – Medicare and Medicaid Health Information Technology; Miscellaneous Medicare Provisions. Section 4101(a). pg 354.
- <sup>7</sup> American Recovery and Reinvestment Act of 2009. Title IV – Medicare and Medicaid Health Information Technology; Miscellaneous Medicare Provisions. Section 4101(b). pg 358.
- <sup>8</sup> American Recovery and Reinvestment Act of 2009. Title IV – Medicare and Medicaid Health Information Technology; Miscellaneous Medicare Provisions. Section 4101(b). pg 358-9.
- <sup>9</sup> “Summary of HHS Recovery Operational Plan, May 2009” HIMSS, <http://www.himss.org/content/output/A99BCB56C33E4E41B76896C29F350300.pdf> (Accessed 6/3/09), p.4.
- <sup>10</sup> “HIT Incentives and State Grant Opportunities – American Recovery and Reinvestment Act of 2009.” By the Rural Health Resource Center. (change cite to actual statute location)
- <sup>11</sup> “Rockefeller bill calls for nationwide adoption of open source EHRs” by Bernie Monegain. Healthcare IT News. April 27, 2009.
- <sup>12</sup> “Bill would boost open-source EHRs for rural use” by Joseph Conn. Modern Healthcare. Pg. 1. April 28, 2009.
- <sup>13</sup> Health Information Technology (IT) Public Utility Act of 2009. Section 4(b)
- <sup>14</sup> “Letter to House Ways and Means Committee,” By Rick Pollack, American Hospital Association, January 22, 2009, <http://www.aha.org/aha/letter/2009/090122-let-tp-housewaysandenergy.pdf> (accessed 6/4/09)



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