

## Health Information Compliance Alert

### STIMULUS :Don't Lag Behind: Implement EHRs Now For Maximum Benefit, Experts Say

But wait: Total cost will far exceed incentives, cautions one doc.

If yours is like many practices, you probably have mixed feelings about the stimulus funding for electronic health record (EHR) systems -- particularly since you'll face penalties if you don't have a system in place by 2015. Other practices, which are already well down the path of IT enhancements, may be grateful for the boost that the American Recovery and Reinvestment Act (ARRA) provides.

Here, **Eli** helps your practice sort through the clamor with expert insight into the incentives ARRA offers -- read on for what you need to know about the bill pumping unprecedented HIT funding into doctors' offices over the next several years.

Start Planning Now To Access 2011 funds

Many experts are urging physicians to act swiftly to make the most out of the funding, while others are advocating caution.

If you want to maximize payment opportunities (particularly early payment opportunities), you need to be ready to go Jan. 1, 2011, said **Edward F. Shay, Esq.**, health law attorney with Post and Schell in Philadelphia, at the Healthcare Information and Management Systems Society (HIMSS) annual conference in Chicago. Once the Health and Human Services (HHS) rules governing certified EHRs debut at the end of 2009, the vendor community will respond quickly and "2010 will be field day" of requests for proposals, contracting, installations and migrations. These processes take time so it is imperative to start early to receive funds in the first payment year, 2011, Shay advised.

Not so fast: You might wonder: Why should we start planning for a new or upgraded EHR system before we know what the HHS standards will be? One response: Many vendors already have certified products and many providers are "going with good now instead of perfect later," said **Dave Roberts, MPA, FHIMSS**, HIMSS vice president of government relations, at the annual HIMSS conference in Chicago. Alternate view: Given the deadlines for purchasing an EHR system, and, eventually, the financial penalties if they don't, that could make physicians buy something too quickly and "rush into an inadequate system," warned **Lyle Berkowitz, MD, FHIMSS**, medical director of clinical information systems for the largest primary care group in the city of Chicago and president of an independent healthcare IT strategy consulting firm, DrLyle.com, in a Modern Healthcare article.

**Reality:** Despite potential pitfalls, it seems that most providers will go the way of EHRs sooner rather than later. In fact, the Congressional Budget Office (CBO) projects that by 2014 physicians' EHR adoption rates will be about 45 percent higher than without the incentive; by 2019 the office estimates that 90 percent of physicians will have adopted EHR technology, revealed **Stuart Hagen**, CBO senior analyst, at the HIMSS conference.

#### Figure Your Stimulus Share Before Shopping

Since the HITECH Act (Title XIII of ARRA) is complicated, some providers are uncertain about how much money they will have access to and the funding timeline.

Here's the skinny:

Medicare share: If you meet the eligibility criteria, you are entitled to approximately 75 percent of your practice's allowed annual Medicare charges, said Shay. The funding is spread over five payment years with a \$44,000 statutory cap. There

is a 10 percent incentive premium for health shortage areas, which could bring the maximum up to \$48.4K for qualified providers, **Vadim Schick**, a Washington, D.C.-based associate in Post and Schell's information technology and data protection groups, told Eli.

Diminishing returns: The \$44,000 total assumes that you have a qualified EHR system in place in 2011 or 2012, adds Schick. If you wait until 2013 to implement EHR, the total incentive drops to \$39,000; in 2014 it falls to \$24,000 and afterwards it drops to \$0, according to Shay.

Medicaid angle: Physicians can only receive the Medicare or the Medicaid incentive, not both. To qualify for the Medicaid incentive, 30 percent of your practice has to be on Medicaid, said Shay. The total Medicaid incentive, which is based on reimbursements for HIT licensing and implementation costs, is estimated at \$65,000 to \$75,000 (depending upon HHS' interpretation of Section 4201(a)(4)(A)(iii)), Schick says.

You may be wondering whether either of these incentives will meet your implementation costs. Over a five year period, the stimulus money should come close to covering the cost, said Roberts, a sum that should hover around \$30,000 to \$50,000 for an individual provider.

Not everyone agrees: "The actual cost of buying and implementing these systems as well as factoring in the lost time and problems -- it's significantly more than \$50,000," Berkowitz told Modern Healthcare. "It's probably more than \$100,000. The systems alone are not the real cost, when you factor in the change management that has to take place."

Ensure 'Meaningful' Purchase

Not all technology -- or users -- are created equal.

There are several caveats to funding eligibility -- not the least of which is using EHR in a "meaningful" way.

Eligible professional: The good news is most practitioners serving Medicare or Medicaid patients will qualify.

According to the ARRA, "eligible professional" means meeting the definition of a physician in a range of specialties including medicine, osteopathy, dental surgery, podiatry, optometry and chiropractics, said Shay.

Covered services: The Act also requires that you furnish "covered professional services," meaning services a "physician" furnishes for which payment is made under a Part B fee schedule.

Meaningful user: A "meaningful user" is a physician who uses a certified system that improves the quality of health care - for instance, by promoting care coordination and providing data on clinical quality measures.

Keep in mind that HHS still has all these criteria in the works and will release the final regulations by Dec. 31, 2009.

Resource: Turn to the back page for "Meet The EHR 'Meaningful' Target ..." for more on the "meaningful use" debate.