

## **Economic Stimulus Package – Finalized Bill – EHR Incentives**

**Finalized Bill** – The **American Recovery and Reinvestment Act of 2009** was signed into law by President Obama.

**Authorized Incentives for Use of EHR Systems** – The incentives total over \$17 Billion and will be administered through Medicare and Medicaid as reimbursements over a 5-year period as follows.

**Hospitals** – Hospital incentives start at \$2 Million annually, with an additional reimbursement amount tied to annual Medicare discharge volume, and decrease for each subsequent year during the 5-year incentive period.

**Physicians** – Non-hospital-based physicians and physician groups can expect to receive up to \$60,000 during the 5-year incentive period, including \$18,000 the first year, if they have qualifying EHR systems in place by 2011.

**EHR Systems That Qualify for the Incentives** – Qualifying EHR systems (tied to “meaningful EHR users”) must meet the following criteria.

**Clinical Decision Support** – As yet undefined, but presumably includes, for example, drug allergy and drug interaction tracking capability

**Physician Order Entry** – As yet undefined, but presumably includes support for entry and storage of diagnoses, course of treatment, etc.

**Ability to Capture Health Care Quality Data** – “To capture and query information relevant to health care quality.” As yet undefined, but the legislative history suggests concerns over those “underserved” within the U.S. healthcare system.

**Ability to Support the Exchange of Clinical Data with Other Organizations** – As yet undefined, but will presumably include elements of system interoperability.

The definition of a “qualifying EHR system” is relatively soft right now (meets the above criteria and is CCHIT-certified), but the definition will become more onerous as we move further into the 5-year incentive period. The Office of the National Coordinator for Health Information Technology (ONCHIT) will be issuing regulations over time that will define additional qualifying criteria and certification standards.

**Other Sources of Funding** – ONCHIT will have approximately \$2 Billion to make low-interest loans and grants available with respect to EHR. Eligibility standards have not been established, but the legislative history suggests the these dollars will go to the states and perhaps private sector participants for the development of EHR system and interoperability standards.

**Buy Now, Upgrade Now, Or Wait?** – Excellent question.

#### **Reasons to Wait**

**State of Flux** – Just like you, EHR system vendors are anxiously awaiting the new EHR system qualification criteria, including any new certification standards. They cannot develop to compliance until the new compliance requirements are known. So, you might decide to wait for the regulatory dust to settle before you buy your first EHR system or upgrade to a new system.

**Buy Now, Get Reimbursed Later** – With the after-the-fact reimbursement structure of the EHR incentive program, you may find that you do not have sufficient money of your own right now to invest in an EHR system. And even if you do, you certainly don't want to waste money on a system that might not qualify for incentive reimbursements down the road (as ONCHIT changes the rules of the game over time).

#### **Reasons NOT to Wait**

**Planning and Sourcing Take Time** – Think of it this way. There are over 300 EHR system vendors out there, and your attempt to understand the functional and technology-environmental variations among the current vendor offerings could make your head spin. Add your attempt to factor in an uncertain future with respect to qualification and certification standards, and you'll quickly find yourself overwhelmed.

My point is this. If you want to take advantage of the EHR incentives, you better get started NOW. You don't necessarily have to commit to a buying decision now, but you should start your planning process now. Get informed, stay informed. Don't procrastinate.

**Reimbursement Penalties** – Remember that the stimulus bill includes not just incentives for EHR system adoption. It also includes penalties. Starting in 2015, healthcare providers that have not adopted a qualifying EHR system will face cuts in their normal Medicare reimbursements.

**EHR System Vendor Terms and Conditions** – You can address the uncertainty within the EHR system market place by demanding tough terms and conditions from your EHR system vendor. You want your EHR system to be a qualifying system when you buy it, and it's fair to expect that your vendor will warrant its qualifying status over time. Under the present circumstances, EHR vendors realize they will have to be extending some very buyer-favorable terms and conditions in order to sell their systems. Take full advantage of this situation, but remember one thing. Good terms and conditions, including system warranties, are only as good as your vendor's ability to back them up. Larger, more-established vendors may have more financial wherewithal to support the buyer-favorable T&C they extend over time. Smaller shops may not.