

# Economic Stimulus

## (Excerpt)

### The American Recovery and Reinvestment Act of 2009

#### Summary of Key Health Information Technology Provisions February 17, 2009

#### 2. Funding and Incentives:

b. Loans to Providers: The National Coordinator may award competitive grants to eligible entities (State or Indian Tribe) for the establishment of programs for loans to healthcare providers. An eligible entity shall establish a certified EHR technology Loan Fund, and comply with other requirements contained in this section. A grant to an eligible entity this section shall be deposited in the Loan Fund established by the eligible entity. Each eligible entity must provide a strategic plan that identifies the intended uses of amounts available to the Loan Fund of such entity.

Loans under this section may be used by a healthcare provider to carry out such activities as 1) facilitate the purchase of certified EHR technology; 2) Enhance the utilization of certified EHR technology; 3) Train personnel in the use of such technology; or, 4) Improve the secure electronic exchange of health information.

c. Incentives through Medicare for the Meaningful Use of Certified EHR Technology: Establishment of incentive payments through Medicare for the meaningful use of certified EHR technology by “eligible professionals and hospitals”. The **CBO estimates** the total cost of Medicare and Medicaid incentives for eligible professionals and hospitals that demonstrate a meaningful use of certified EHR technology to be \$20.819. \$20.819 is derived from the sum of the total costs of the incentives in fiscal year 2009 – fiscal year 2015 (\$36.368 billion) and the total savings that are achieved in fiscal year 2016 – fiscal year 2019 through the incentives (\$15.549 billion).

Incentive payments to eligible professionals:

An eligible professional (physician) will receive incentive payments as specified in the legislation, for the first five years (fiscal year 2011 – fiscal year 2015), for demonstrating a meaningful use of EHR technology and demonstrated performance during the reporting period for each payment year. If an eligible professional does not demonstrate meaningful use by 2015, his/her reimbursement payments under Medicare will begin to be reduced. No incentive payment will be made after 2016.

A meaningful user is an eligible professional (physician) that:

1) Demonstrates to the satisfaction of the Secretary that during such period the professional is using certified EHR technology in a meaningful manner, which shall include the use of electronic prescribing as determined to be appropriate by the Secretary;

Certified EHR technology means an EHR that is certified to meeting standards pursuant to this Act. To be qualified as a certified EHR technology, the certified technology must include patient demographic and clinical health information, such as medical history and problem lists, and has the capacity to provide clinical decision support to support physician order entry, to capture and query information relevant to healthcare quality, and to exchange electronic health information with, and integrate such information from other sources.

Payment schedule for an eligible professional is as follows:

- 1) First payment year for such professional is \$18,000
- 2) For second payment year for such professional is \$12,000
- 3) For the third payment year for such professional is \$8,000
- 4) For the fourth payment year for such professional is \$4,000
- 5) For the fifth payment year for such professional \$2,000
- 6) For any succeeding payment year for such professional is \$0

If eligible professionals have not become meaningful users of EHRs by 2014, they will not receive full Medicare payments beginning in 2015. The reduction in the fee schedule is as follows:

2015 - 99%;

2016 - 98%

2017 and each subsequent year - 97%

Provisions also apply to Medicare Advantage Organizations.

The amount available per eligible professional is increased by 25% for those who predominantly practice in a rural setting. Payments are not available to hospital-based professionals (such as a pathologist, EM doc, or anesthesiologist).

Incentive payments to eligible hospitals:

An eligible hospital will receive incentive payments as specified in the legislation, for the first five years (fiscal year 2011 – fiscal year 2015), for demonstrating a meaningful use of EHR technology and demonstrated performance during the reporting period for each payment year. If an eligible hospital does not demonstrate meaningful use by fiscal year 2015, his/her reimbursement payments under Medicare will begin to be reduced.

An eligible hospital shall be treated as a meaningful EHR user for an EHR reporting period for a payment year if each of the following requirements are met:

- 1) The eligible hospital demonstrates to the satisfaction of the Secretary that during such period the hospital is using certified EHR technology in a meaningful manner;
- 2) The eligible hospital demonstrates to the satisfaction of the Secretary that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination; and
- 3) The eligible hospital submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary.

Certified EHR technology means an EHR that is certified to meeting standards pursuant to this Act. To be qualified as a certified EHR technology, the certified technology must include patient demographic and clinical health information, such as medical history and problem lists, and has the capacity to provide clinical decision support to support physician order entry, to capture and query information relevant to healthcare quality, and to exchange electronic health information with, and integrate such information from other sources.

The payment formula for a hospital for a payment year is equal to the product of the following:

- 1) Initial amount – The sum of the base amount\* specified plus the discharge related amount\*\* for a 12-month period selected by the Secretary with respect to such payment year.
- 2) The Medicare share\*\*\* for the hospital for a period selected by the Secretary with respect to such payment year.
- 3) The transition factor\*\*\*\* for the hospital for the payment year.

\* The base amount specified in the subparagraph is \$2 million.

\*\* The discharge related amount specified in this subparagraph for a 12-month period selected by the Secretary shall be determined as the sum of the amount, based upon total discharges (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

- (i) For the first through 1,149th discharge, \$0.
- (ii) For the 1,150th through the 23,000th discharge, \$200.
- (iii) For any discharge greater than the 23,000th, \$0.

\*\*\* The Medicare share specified under this subparagraph for an eligible hospital for a period selected by the Secretary for a payment year is equal to the fraction--

- (i) the numerator of which is the sum (for such period and with respect to the eligible hospital) of —
  - (I) the estimated number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals with respect to whom payment may be made under part A; and
  - (II) the estimated number of inpatient-bed-days (as so established) which are attributable to individuals who are enrolled with a Medicare Advantage organization under part C; and
- (ii) the denominator of which is the product of —
  - (I) the estimated total number of inpatient-bed-days with respect to the eligible hospital during such period; and
  - (II) the estimated total amount of the eligible hospital's charges during such period, not including any charges that are attributable to charity care (as such term is used for purposes of hospital cost reporting under this title), divided by the estimated total amount of the hospital's charges during such period.

\*\*\*\* Transition factor for an eligible hospital for a payment year is as follows:

- (I) for the first payment year for such hospital, 1.
- (II) for the second payment year for such hospital,  $\frac{3}{4}$
- (III) For the third payment year for such hospital,  $\frac{1}{2}$
- (IV) For the fourth payment year for such hospital,  $\frac{1}{4}$ ; and,
- (V) For any succeeding payment year for such hospital, 0. For fiscal year 2015 and each subsequent fiscal year, in the case of an eligible hospital that is not a meaningful EHR user for the reporting period for such fiscal year, three quarters of the applicable Market Basket Adjustment percentage increase otherwise applicable for such fiscal year shall be reduced by:
  - Fiscal year 2015 - 33  $\frac{1}{3}$  percent
  - Fiscal year 2016 - 66  $\frac{2}{3}$  percent
  - Fiscal year 2017 and each subsequent fiscal year - 100 percent

d. Incentives through Medicaid for the Meaningful Use of Certified EHR Technology: Provides incentive payments, beginning in 2011, for certified EHR technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) by Medicaid providers.

The definition of — "meaningful use" must be established through a means that is approved by the State and acceptable to the Secretary. As a further step, the definition must be in alignment with the one used for Medicare.

Certified EHR technology means a qualified EHR that is certified to meeting standards pursuant to this Act and includes patient demographic and clinical health information, such as medical history and problem lists, and has the capacity to provide clinical decision support to support physician order entry, to capture and query information relevant to healthcare quality, and to exchange electronic health information with, and integrate such information from other sources.

The State is authorized to make payments to Medicaid providers, beginning in 2011, that are the following percentage of total costs associated with the certified EHR technology:

- i. For an eligible professional who is not hospital based and has at least 30 percent of the professional's patient volume attributable to individuals who are receiving medical assistance under this title; and who is a

pediatrician, who is not hospital based, and who has at least 20 percent of the professional's patient volume attributable to individuals who are receiving medical assistance under this title; and who practices predominately in a Federally qualified health center or rural health clinic and has at least 30 percent of the professional's patient volume attributable to needy individuals - these providers can receive, not in excess of 85 percent of net average allowable costs for certified EHR technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology).

ii. And Medicaid providers that are a children's hospital – or an acute care hospital that is not a children's hospital – and that have at least 10 percent of the hospital's patient volume attributable to individuals who are receiving medical assistance under this title may receive not in excess of the maximum amount permitted for the provider involved.

No reductions in Medicaid payments are to be made if a provider does not adopt certified EHR technology.

The legislation caps the aggregate amount that a Medicaid provider can receive in incentives at \$63,750.

The American Recovery and Reinvestment Act of 2009

Summary of Key Health Information Technology Provisions

Created in partnership with the Healthcare Information and Management Systems Society (HIMSS)

All individuals and institutions should review the American Recovery and Reinvestment Act of 2009 (H.R. 1) directly or seek advice of counsel. This summary does not constitute and cannot be relied upon as legal advice.