

Frequently Asked Questions American Recovery and Reinvestment Act and the HITECH Act

Basics of the Bill

I've seen lots of numbers out there about the health IT parts of the Stimulus - \$20 billion, \$19 billion, \$23 billion and \$36 billion. What is correct?

Originally, it was estimated that \$19.2 billion in health IT was included in the American Reinvestment & Recovery Act (commonly referred to as the Stimulus). This was based on \$2 billion for the Office of the National Coordinator and \$31 billion for incentives through Medicare and Medicaid; once savings of \$12 billion were subtracted out, the net was \$19.2 billion.

However, the Congressional Budget Office (CBO) now estimates higher projections for incentive bonus payments made to eligible providers that demonstrate a meaningful use of certified EHR technology at \$36.3 billion, as well as greater savings for the government based on improved efficiencies, tax revenue and reduced fee schedule payments due to penalties for non-adoption. When you subtract the anticipated savings of \$18.8 billion achieved through efficiencies, the CBO estimates a new net cost of \$19.5 billion. The total difference between the two totals may seem small, but the total value of the incentive payments at \$36 billion is a very noteworthy number.

How does the \$19.5 billion that's allocated to Health IT break down in the Stimulus Bill?

There is \$2.1 billion that will be available to the Secretary of Health & Human Services for distribution through the Office of the National Coordinator for Health IT (ONCHIT). These funds will be spent on projects related to standards evaluation and development, infrastructure for health information exchange (HIE), grants to states for the purpose of furthering EHR adoption, improvements in telemedicine delivery, and the establishment of Regional Health IT Resource Centers.

There is an additional almost \$18 billion to be applied to longer term utilization incentive bonuses for providers meeting certain criteria – this is the net cost after anticipated savings are subtracted from the total spend of \$36 billion on incentive payments.

What are the different incentive options?

There are two incentive payment programs outlined under the HITECH Act – one through Medicare and another from Medicaid. Providers can only submit for payment of an incentive bonus from one of the programs so will need to analyze their organization's public payer mix to determine where they stand to benefit most. Both require that a provider prove "meaningful use" of an EHR product to qualify for the incentives, as well.

How does the bill define adequate EMR utilization? What does "meaningful use" actually mean?

"Meaningful Use" is defined in three ways in the Bill:

- Use of a certified product complete with ePrescribing capability as determined appropriate by the Secretary of HHS
- The EHR technology is connected for the electronic exchange of PHI
- Complies with submission of reports on clinical quality measures

All further details about what type of reporting will need to be submitted, what level of connectivity will be required and the final criteria for standards will be determined by the Secretary of Health & Human Services before the utilization incentives begin.

Is this incentive done on a per physician basis or on an office basis?

The incentives in the ambulatory space are paid on a per provider basis

What are the bonus payments that will be available to physicians under Medicare?

Under Medicare, physicians will be eligible for up to the following amount as soon as they can demonstrate “meaningful use” (beginning in 2011): **Amount They’ll Receive Each Year**

Year they first file	2011	2012	2013	2014	2015	2016	TOTAL
2011	\$18,000	\$12,000	\$8,000	\$4,000	\$2,000	\$0	\$44,000
2012	\$0	\$18,000	\$12,000	\$8,000	\$4,000	\$2,000	\$44,000
2013	\$0	\$0	\$15,000	\$12,000	\$8,000	\$4,000	\$39,000
2014	\$0	\$0	\$0	\$15,000	\$12,000	\$8,000	\$35,000
2015 or Later	\$0	\$0	\$0	\$0	\$0	\$0	\$0

How will the physician payment be calculated under Medicare?

The Medicare payments will be calculated by multiplying the submitted allowable charges to Medicare by 75%, up to the capped amount for the year. So a physician aiming to collect the full incentive payment of \$18,000 in 2011 will need to submit allowable charges of at least \$24,000. Conversely, a physician submitting only \$16,000 in allowables would collect \$12,000 in 2011, even though the cap is higher.

As a physician, what if I don’t demonstrate use of an EHR after the incentives are in place?

Beginning in 2015, physicians not demonstrating meaningful use will have their Medicare fee schedule reduced.

Reductions will be:

For 2015, down to 99 percent of the regular fee schedule

For 2016, down to 98 percent

For 2017 and each subsequent year, down to 97 percent

If the Secretary finds that less than 75% of eligible healthcare professionals are utilizing EHR beginning in 2018, the Secretary can further reduce the fee schedule to 96% and then 95% in subsequent years but not further.

Are “mid-level” providers covered by the incentive programs?

Under the Medicaid program, nurse practitioners and nurse mid-wives can file for incentive payments.

Additionally, Physician Assistants (PAs) are included but only insofar as the PA is practicing in a rural health clinic that is led by that PA or is practicing in a Federally qualified health center that is so led.

Mid-levels are not included in the Medicare portion of the incentives.

Are groups that do Medicare Advantage also eligible for the stimulus dollars?

Yes, there are provisions of the Bill related to groups accepting Medicare Advantage. Those organizations and their providers are eligible for the incentives as long as the provider delivers a minimum of twenty hours a week of patient care services and the organization furnishes at least 80 percent of the services of the individual professional to clients of their organization.

How do the EHR incentives relate to the ePrescribing and PQRI payments currently available to physicians?

Once a provider starts collecting incentive payments for meaningful use of an EHR (whether in 2011 or beyond), he or she can continue to collect PQRI payments but cannot continue to collect ePrescribing payments.

What are the bonus payments that will be available to physicians under Medicaid?

A healthcare provider is eligible for incentive payments from Medicaid who:

- 1) is not hospital-based and has at least 30 percent of the professional’s patient volume coming from Medicaid patients;
- 2) who is a pediatrician, who is not hospital-based, and who has at least 20 percent of the patient volume coming from Medicaid patients;
- 3) practices predominantly in a FQHC or rural health clinic and has at least 30 percent of the professional’s patient volume coming from Medicaid patients;
- 4) is a children’s hospital, or an acute-care hospital that is not described in clause (i) and that has at least 10 percent of the hospital’s patient volume coming from Medicaid patients.

Incentive payments will be based on a calculation that factors the physician’s Medicaid mix in combination with up to \$25,000 the first year and \$10,000 each subsequent year for five years, all multiplied by 85%. The highest potential for Medicaid payments is \$63,750. Additionally, physicians filing under Medicaid must first demonstrate EHR usage by 2015 and will not be eligible for payments after 2021.

Note: Pediatricians, because they have to meet a lower threshold of only 20% Medicaid patients to qualify for the incentives, are only eligible for 66% of the incentive payments described above.

If a physician practice is wholly owned by a hospital, will the physicians receive the incentive payments for meaningful use in 2011, or the hospital as the funding source for the EHR?

This is an area of the law that is slightly ambiguous. Generally, it reads as if this test will be based on the care setting in which a physician furnishes services regardless of the ownership or financial model with a hospital or other provider organization. However, this is an area where further clarification will be sought from the Secretary of HHS.

How can we leverage the recent stimulus bill to make an EHR more affordable for us? How does a rural physician clinic obtain grants for implementing an EHR?

While the majority of the funding in the HITECH Act is reserved for utilization bonuses, part of the \$2 billion in discretionary funds to HHS / ONC are to go to grant programs to help organizations offset upfront purchase costs. The details of those grant programs are not yet in place, but it is likely they will prioritize primary care practices, those delivering care in a rural or high Medicaid environment, or those seeking to establish a Medical Home model.

Are the incentives still available if you do not have all medical group offices fully implemented? We have 3 of 30 offices live on Enterprise now.

First, remember that the incentive payments go, for the most part, to the individual physicians delivering the care and are not distributed at the organizational level. However, to earn the payments, the physicians must demonstrate meaningful use, which includes connectivity to other healthcare providers; practices that are not fully operational across the entire enterprise are less likely to have clarified their connectivity strategy and so may present a roadblock to those physicians who are using the EHR. This is among the issues that practices will need to work through in order for their physicians to collect the incentive payments.

PQRI and DOQ have excluded Rural Health Care clinics. Will the new incentives also exclude RHC clinics?

Rural health is a key area of focus in the legislation; many of the formulations of the HITECH Act were so configured specifically to ensure the participation of rural health providers. For example, there is a 10% incremental bonus available to physicians proving meaningful use under the Medicare incentive programs while delivering care in a Health Provider Shortage Area. Additionally, the reporting requirements, while not finalized, are specified to reflect different provider capabilities and will likely not be only code based, as are those in the PQRI program. Instead, the HITECH Act outlines the options of survey and attestation reporting, which could be to the benefit of clinics using 1500 forms.

Do we need to be operating all of 2010 in order to be eligible for 2011 incentive payment?

It is likely the Secretary will determine that funds should be disbursed on a regular and predictable schedule to those demonstrating meaningful use beginning in 2011. For example, if a physician demonstrates use for the first quarter of 2011, a percentage of the utilization incentives will be distributed. We will know the final model once the Secretary outlines the ruling for the timing, frequency and reporting requirements.

How will the EHR Stimulus Funding actually come to the physicians?

The timing and distribution methodology for the incentive payments are not yet finalized.

Are all physicians in the U.S. eligible for incentive bonus payments from Medicare and Medicaid?

While the majority of physicians stand to earn incentive payments if they meet the meaningful use threshold, there are some that will not qualify – those not accepting Medicare, or those that do not have a patient base that is comprised of more than 30% Medicaid patients. Additionally, physicians delivering all care in a hospital, such as anesthesiologists, pathologists or emergency physicians, do not qualify.

Note that while most providers must demonstrate that 30% of their patients are using Medicaid in order to qualify for that portion of the program, pediatricians need only prove 20%. This is an effort to facilitate the participation of more pediatricians in the program who would not normally accept Medicare and very well might not have a sufficient Medicaid volume to qualify.

If the incentives are for Medicare and Medicaid services, how are the providers incited to adopt if they do not have Medicare or Medicaid patients? Those like pediatricians or a practice with a sports medicine specialty?

If a physician does not meet the Medicaid payer mix threshold and does not accept Medicare, they will be able to apply for grants and/or loans to offset the upfront costs of the purchase of an EHR but will not be eligible for incentives as currently delineated. However, the Secretary of HHS will be assessing utilization levels beginning in 2011, and if he or she believes that there is a need to offer other incentives to prompt adoption among those populations of providers, that will be addressed then.

If I meet the definition of meaningful use now as an EHR user, can I earn incentive payments immediately?

No, all organizations must wait until 2011 to submit for incentive payments. However, you do have an immediate opportunity to earn incentives from CMS for ePrescribing utilization, as well as PQRI bonuses.

Can you please outline how this would work in a private psychiatrist's office? How would they define meaningful use?

Other than the singular Medicaid threshold adjustment for pediatricians, there is no specialty-specific language in the HITECH Act that would mean any criteria changes for any individual type of provider. Therefore, all specialties will need to meet the same criteria: certified EHR product, connectivity to other healthcare professionals, and submission of reports to HHS.

Is this a loan? Will this money have to be paid back if you receive the help for EHR?

With the exception of loan programs which will be established by the States in 2010 based on Stimulus funding from the Federal government, the incentive payments and funding sources identified as "grants" will not be loans or expected to be repaid at any point.

What does the connectivity requirement of the meaningful use definition mean?

The Secretary of HHS will be defining this requirement further, but we believe that demonstrating connections and patient data exchange with another provider such as a lab, pharmacy, imaging center, hospital, or other physician will satisfy the requirement. It is possible that as health information exchange initiatives gain traction in more regions across the country that the requirement for connectivity will be adjusted by the Secretary and be interpreted more stringently.

Besides Medicare and Medicaid, how will it work with other large payers?

There is nothing in the Bill that addresses private payers, but it is likely that in this area, as in others historically, the insurance companies will follow the lead of the Federal and State governments.

Are there incentives for providers delivering care in a home care, hospice or other long-term care environment?

There are no incentives in the Stimulus for EHR use in a post-acute setting – the plan is to address this obvious and recognized gap in the larger health reform work that President Obama kicked off in a speech the week of February 23rd. The primary reason for this is that systems for home health, hospice and nursing homes have not been subjected, to date, to the same certification or standards scrutiny as has taken place in the other care settings, so Congress felt more would be required than could be done by the 2011 incentive timeframe.