

Don't Get Left Behind

What the Economic Stimulus Bill Means to Your Practice

BY JAMES B. CALNAN, CPA

On Feb. 17, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), also referred to as the Economic Stimulus Bill. This is the most significant legislation affecting medical practices in the past decade. Why?

First, it provides the largest monetary incentive program the government has ever offered to medical practitioners. Physicians, hospitals, and other health care providers of Medicare and Medicaid patients will be eligible to share in a pool of \$17 billion in incentive payments to adopt health information technology (HIT) — more specifically, electronic health record (EHR) systems. This translates to payments per individual of up to \$44,000 for Medicare providers and up to \$75,000 for Medicaid providers. Medicare Part B providers in medically underserved areas are eligible for an additional 10%.

Second, the legislation includes government mandates that will require medical practices to implement more advanced HIT systems than they already have just to comply with those mandates.

Third, it will require changes to the way you manage your practice and the way you maintain and protect patient health information. Failure to comply with the Economic Stimulus Bill mandates will cost you in terms of lower payments for your services and very costly litigation to defend your practice.

If you or your medical practice expect to be in the practice of medicine five years from now, you will have to comply with this

legislation. Since the government is offering you money with one hand and threatening you with an ax with the other hand, you may as well get with the program and take the money. The objective of this article is to acquaint you with an overview of ARRA



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and to give you a time frame for adoption and implementation so you can put together a strategy and begin an implementation process. If you choose to wait and see, you risk losing your share of the incentive payments.

There are two very different incentive programs available, one for Medicare providers and one for Medicaid providers. There are also many specific details and standards of ARRA that have yet to be defined. The secretary of Health and Human Services has until Dec. 31, 2009 to come up with standards, implementation specifications, and certification processes. Don't hold your breath and don't wait to act. There are several steps you can begin now.

Medicare Providers

Eligible Medicare providers include medical doctors, dentists, podiatrists, and

optometrists. Hospitals are also eligible, but hospital-based providers such as pathologists, anesthesiologists, ER doctors, and hospitalists who furnish substantially all their services in a hospital setting using hospital facilities and equipment are not

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should discuss this with your vendor. If you are in the process of acquiring a new system, be sure this requirement is in your RFP and contract.

The incentive payment is equivalent to 75% of allowable Medicare charges, spread over five years with annual limits, for a maximum aggregate of \$44,000 (10% more for medically underserved regions), according to the following schedule:

- Year one: Up to \$18,000 if the first payment year is 2011 or 2012, or \$15,000 if the first payment year is 2013;
- Year two: \$12,000
- Year three: \$8,000
- Year four: \$4,000
- Year five: \$2,000

A medical practice with annual Medicare allowable charges of \$140,000, spread relatively evenly over five providers could be eligible to receive \$44,000 per provider for a total of \$220,000 over the course of five years.

No incentive payments will be awarded after 2016. No incentive payments will be awarded if you first qualify after 2014. Providers who were previously eligible for E-prescribing bonuses established by the Medicare Improvements for Patients and Providers Act (MIPPA) will not be able to collect (double-dip) from both programs.

In general, the provisions also apply to physicians delivering most of their services through a Medicare Advantage plan (i.e., Tufts Secure Horizons). Eligible professionals in this category are those employed by the organization, are members or employees of an organization that furnishes 80% of its patient care services to a Medicare advantage plan, fur-

eligible for incentive payments. Physical therapists are also not eligible.

Eligible providers must demonstrate that they are 'meaningful users' of EHR technology, which requires:

- Electronic prescribing;
- 'Certified' EHR technology that provides electronic exchange of health information to and from outside the practice; and

Submission of information on clinical quality measures and such other measures to be determined.

The HHS secretary will define 'certified,' but it is likely to require approval of a certifying body such as the Certification Commission for Healthcare Information Technology (CCHIT). If your current EHR system is not certified or has not been certified within the last two years, you will need to begin the process of getting it certified or recertified. You

nishes 75% of these services of the eligible professional to the organization, and furnishes at least 20 hours per week of patient care services. There are limitations to avoid duplication of payment, and the maximum number of physicians per organization is capped at 5,000.

Beginning in 2015, CMS will reduce Medicare payments for professional services furnished by an eligible professional if that professional is not a meaningful EHR user. The schedule and amounts of Medicare payments (with some exceptions) will be 99% in 2015, 98% in 2016, and 97% in 2017 and beyond.

HHS is authorized to increase penalties beginning in 2019, but penalties cannot exceed 5%. Exceptions will be made on a case-by-case basis for significant hardships (e.g., rural practices without sufficient Internet access). The E-prescribing penalties set out in MIPPA will sunset after 2014. There are additional provisions relative to the eligibility and funding for hospitals as well as penalties for not implementing certified HIT.

Medicaid Providers

Eligible Medicaid providers include:

- An eligible professional who is not hospital-based and has at least 30% Medicaid patient volume;

- A pediatrician, who is not hospital-based and has at least 20% Medicaid volume;

- A federally qualified health center or rural health clinic that has at least 30% of patient volume attributable to needy individuals; or

- A children's hospital or an acute-care hospital and that has at least 10% Medicaid patient volume. In all cases, volume will be estimated in accordance with a method established by the HHS secretary.

'Eligible professionals' for Medicaid incentives include physicians, dentists, certified nurse midwives, nurse practitioners, and physician assistants (practicing in a rural health clinic led by a physician assistant or practicing in a federally qualified health center that is so led).

States are authorized to make payments to eligible Medicaid providers totaling no more than 85% of net average allowable costs, subject to annual dollar limits, for the adoption, implementation, upgrading, maintenance, and operation of certified EHR technology.

The first year (2011) payment

of up to \$25,000 would be provided for the adoption, implementation, and upgrade of certified EHR systems. The payment of up to \$10,000 for each of the next five years will be for operating and maintaining such systems.

Individual states and the HHS secretary will develop specifics as to the processes and timing of reporting and payments and to the definition of a certified system and the qualifications to participate in the incentive program.

The stimulus legislation creates the Office of the National Coordinator for Health Information Technology and has authorized it to:

- Create national policy and infrastructure for HIT;

- Provide an additional \$2 billion in grants to states for HIT loans to medical practices; and

- Develop an HIT system to be made available to physician practices at a nominal cost, if deemed necessary.

In addition to the monetary incentive program, the Economic Stimulus Bill contains numerous other substantive provisions including changes to current HIPAA privacy and security rules and mandating that medical practices comply by Feb. 17, 2010.

Most surveys and health care pundits agree that only about 20% of physicians currently employ some form of EHR system and less than 5% have a fully functional system that currently meets the requirements anticipated in this most recent legislation. The current nature and volume of federal legislative mandates makes compliance with the law virtually impossible without having a state of the art HIT system in place.

For those practices currently using EHR, this will require some upgrades. For those without EHR systems, this will require a strategic action plan. The train is leaving the station, so to speak, and you have about two years to take full advantage of the monetary incentives being offered. You have about five years to avoid incurring financial penalties. For better or for worse, the health care industry is moving in this direction, and the time for procrastinating is behind us. You need to get on board or risk being left behind.❖

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