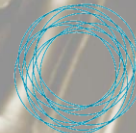


# Health Care Reform: FINDING YOUR WAY

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## HIT Me Again

### Health Information Technology and the Patient Protection and Affordable Care Act of 2010

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#### EXECUTIVE SUMMARY

The Patient Protection and Affordable Care Act of 2010 (PPACA) continues Congress' commitment to increasing the use of health information technology (HIT) to improve quality of care, increase the efficiency of care, and encourage the use of health information for public health and research purposes. While the HIT provisions of PPACA do not have the same immediate impact on health care providers as the HITECH Act, the PPACA will have substantial long-term impact on health care providers, through funding new care delivery models that will rely on the use of HIT to improve quality and efficiency of health care, the encouragement of the use of health information for so-called "secondary uses" such as comparative effectiveness research, implementation of HIT standards for clinical reporting, and encouraging patient education. PPACA takes a substantial step towards integrating HIT into reimbursement and quality evaluation structures.

#### BACKGROUND

In the American Reinvestment and Recovery Act of 2009 (ARRA), Congress made sweeping changes to encourage the use of EHRs and to develop health information exchange (HIE), with the intent of improving the quality and reducing the costs of health care. Specifically, ARRA included the Health Information for Economic and Clinical Health Act (the HITECH Act), which included a number of significant provisions to encourage the development of HIT and HIE:

- **Electronic Health Record Financial Incentives:** The HITECH Act provided for substantial Medicare and Medicaid incentives for hospitals and physicians to adopt electronic health records (EHRs). These incentives and grants will provide the needed support for many health care providers to adopt technology necessary to improve the quality and efficiency of patient care. To implement these incentives, the Department of Health and Human Services (HHS) has published proposed regulations (referred to as the “meaningful use” regulations, because in order to receive incentive payments providers must make “meaningful use” of certified EHR systems). HHS has also published interim final regulations for certification of EHR systems and proposed regulations governing the certifying bodies.
- **Regional Extension Centers:** Under this grant program, the HHS Office of the National Coordinator for Health Information Technology (ONC) awarded more than \$375 million in grants to establish sixty Health Information Technology Regional Extension Centers (RECs) across the country. The RECs are intended to provide a local resource for technical assistance, guidance, and information on best practices in implementing EHRs at primary care providers, critical access hospitals and rural hospitals.
- **Health Information Exchange Implementation and Planning:** The HITECH Act also established the State Health Information Exchange Cooperative Agreements. ONC has made 56 awards to funds states’ efforts to plan and implement HIE.
- **Strategic Health IT Advanced Research Projects (SHARP) Program:** The SHARP Program is funding research designed to accelerate the adoption of HIT. ONC awarded four cooperative agreements totaling \$60 million to address research involving HIT security, patient-centered cognitive support, health care application and network platform architectures, and secondary use of EHR data.
- **Beacon Communities:** The Beacon Community Cooperative Agreement Program provides funding for communities already advanced in their use of EHR and HIE to establish documented best practices.
- **Community College Consortia to Educate Health Information Technology Professionals in Health Care Program:** Through this program, ONC is funding the development and expansion of HIT education at community colleges to develop a skilled workforce capable of supporting the expected HIT expansion. ONC is also funding a related program for HIT curriculum development to support the consortia and university-based education.
- **Changes to the HIPAA Privacy and Security Rules:** The HITECH Act substantially expanded the HIPAA Privacy and Security Rules by:
  - Applying many of the HIPAA privacy and security requirements directly to business associates;

- Creating new privacy requirements for HIPAA covered entities and their business associates;
- Establishing mandatory federal breach reporting requirements for HIPAA covered entities and their business associates; and
- Establishing new criminal and civil penalties for noncompliance and new enforcement responsibilities.

The passage of PPACA builds on the HITECH Act provisions by funding new care delivery models that will rely on the use of HIT to improve quality and efficiency of health care, to utilize health information for so-called “secondary uses” such as comparative effectiveness research and public health research, to implement HIT standards for clinical reporting, and encouraging patient education. PPACA takes a substantial step towards integrating HIT into reimbursement and evaluation structures.

### **RELEVANT PROVISIONS OF PPACA**

**Use of HIT to Improve and Measure Quality of Care.** Section 1001 requires HHS to develop reporting requirements for insurers regarding programs related to provider reimbursement, including quality reporting, case management, care coordination, chronic disease management, and medication and care compliance initiatives, including through the use of the medical home model (see PPACA section 3602). It also requires insurers to report on prevention of hospital readmissions “through a comprehensive program for hospital discharge that includes patient-centered education and counseling, comprehensive discharge planning, and post discharge reinforcement by an appropriate health care professional” and implementation of “activities to improve patient safety and reduce medical errors through the appropriate use of best clinical practices, evidence based medicine, and health information technology under the plan or coverage.”

Section 3002 extends the PQRI program, which provides financial incentives to physicians who report quality data to the Medicare program. By January 2012, HHS is required to develop a plan to integrate these quality reporting requirements into the regulations regarding payment incentives for “meaningful use” of EHRs.

Section 3003 provides for the development of comparisons of physician per capita utilization, risk-adjusted to account for local health care costs.

Section 3015 requires HHS to develop mechanisms to collect data on quality from EHRs.

Section 10330 relates to the quality of performance by the Medicare program, and requires HHS to submit a plan and budget to modernize the CMS computer systems.

Section 10331 requires HHS to develop a “Physician-Compare” Web site.

Section 10332 authorizes HHS to release extracts of Medicare claims data to measure quality of provider and supplier performance.

**Use of HIT to Increase Efficiency of Care.** Section 1104 accelerates the adoption of electronic financial and business transactions in health care (the HIPAA “standard transactions”), such as improvements in eligibility verification and prior authorization.

Section 1561 requires HHS to develop standards for the electronic enrollment of patients into federal programs. These standards will include various electronic methods to match patients against information sources relevant to eligibility, including vital records, employment history, enrollment systems, and tax records. HHS also will work on the capability for individuals to manage their eligibility information online.

**Use of HIT for Payment Reform.** Section 3021 creates an “Innovation Center” at CMS to explore payment structures that would encourage patient-centered care and improve quality of care. For example, these structures would support care coordination through home telehealth, patient registries and other technology to coordinate care.

Section 3022 creates Accountable Care Organizations. ACOs will be required to promote evidence-based medicine, encourage patient involvement, report on quality and cost measures, and coordinate care; many of these efforts will depend on the use of HIT and the integration of EHRs and electronic prescribing. A separate CSB health care reform advisory will discuss ACOs in detail.

Section 3023 creates a National Pilot Program on Payment Bundling, which will require reporting of quality measures related to care coordination, and will require submission of these measures through the use of a qualified EHR.

Section 3024 creates a program to test payment incentives and service delivery systems for chronically ill Medicare patients, with an emphasis on furnishing care in the home through HIT.

Section 3502 provides grants to establish “medical homes” through “Community Health Teams.” These teams would use HIT to facilitate coordination between primary care practices and others involved in the care of the patient.

**Use of HIT for Research.** Section 3011 requires HHS to create a strategy to utilize health care data to improve the quality, efficiency and transparency of patient outcomes. HIT is expected to perform a central role in this strategy.

Section 3501 provides funds for the Agency for Healthcare Research and Quality (AHRQ) Center for Quality Improvement and Patient Safety, to support research related to innovative quality improvement practices.

Section 4301 requires the Centers for Disease Control (CDC) to provide funding for research on evidence-based practices for prevention and strategies for public health services.

Section 4302 requires federal health programs to collect and report data by race, ethnicity, language and other indicators to monitor trends in health disparities.

Section 6301 creates a nonprofit organization called the “Patient-Centered Outcomes Research Institute.” The Institute will provide funding to conduct comparative effectiveness research, develop clinical registries and health outcomes data networks, and to create an interoperable network to link data from multiple sources, including EHRs. Importantly, the statute prohibits comparative effectiveness research findings from being used for coverage decisions.

### **WHAT THIS MEANS FOR HEALTH CARE PROVIDERS**

The passage of PPACA builds on the HITECH Act provisions by funding new care delivery models that will rely on the use of HIT to improve quality and efficiency of health care, utilize health information for so-called “secondary uses” such as comparative effectiveness research and public health research, implement HIT standards for clinical reporting, and encourage patient education. PPACA takes a substantial step towards integrating HIT into reimbursement and evaluation structures.

### **FOR MORE INFORMATION**

This Client Alert is the sixth in the “Finding Your Way” advisory series, designed to assist our clients and other health care providers as they prepare to respond to health care reform. Future articles will include discussions regarding the health care reform law’s provisions regarding accountable health organizations, health reform pilot projects, and health reform quality initiatives.

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