

What is the HITECH Act?

The Health Information Technology for Economic and Clinical Health (HITECH) Act is a \$19.2 billion provision of President Obama's \$787 billion stimulus package (known as the American Recovery and Reinvestment Act of 2009) signed into law on February 17th. The HITECH Act represents ground-breaking legislation to promote the adoption of an Electronic Health Record (EHR) by eligible providers through incentives for "meaningful use" of certified technology.

Who are eligible providers?

CMS has not released detailed eligibility criteria yet; however, as currently stated, each eligible provider must:

- Be a physician.
- Receive Medicare reimbursement payments.
- Provide care in an ambulatory setting (hospital-based providers—i.e., anesthesiologists, pathologists, and ER physicians—are excluded by CMS).

What is "meaningful use"?

"Meaningful use" is a set of standards, to be defined formally by CMS, that an eligible physician must demonstrate through the use of a certified EHR in order to receive Federal Stimulus bonus payments. An eligible physician must demonstrate "meaningful use" of a certified EHR by 2011 in order to receive the first available Federal Stimulus bonus payments. These criteria will be expanded in 2013 and 2015.

We have learned that the following five goals will be the key to all definitions of "meaningful use":

- Improve quality, safety, and efficiency
- Engage patients and their families
- Improve care coordination
- Improve population and public health; reduce health disparities
- Ensure privacy and security protections

How can I qualify for stimulus money?

Beginning in 2011, physicians and non-hospital-based providers are eligible to receive stimulus money by proving "meaningful use" of a certified EHR. The payments are staged between 2011 and 2015 and decrease over time. Early adopters (in 2011 and 2012) will receive a bonus.

If I qualify, how much money am I eligible to receive?

The incentive payment is equal to 75 percent of Medicare allowable charges for covered services furnished by the physician in a year, subject to a maximum payment in the first, second, third, fourth, and fifth years of \$15,000; \$12,000; \$8,000; \$4,000; and \$2,000, respectively. For early adopters whose first payment year is 2011 or 2012, the maximum payment is \$18,000 in the first year.

There would be no payments to eligible physicians who first become meaningful EHR users in 2015 or thereafter. For eligible providers who predominantly furnish services in a health

professional shortage area (HPSA), incentive payments would be increased by 10 percent. To see if you qualify for the HPSA payment increase, visit: <http://www.hpsafind.hrsa.gov/>.

How will the incentives be paid?

The payment process will be defined after the release of the final definition of “meaningful use” in spring 2010. The HIT Standards Committee is currently at work to develop an outreach plan and support program to help eligible providers adopt an EHR and better understand the incentive payment process. On August 20, 2009, the ONC announced its allocation of \$598M of ARRA funds to the Health Information Technology Extension Program (HITEP) for the establishment of some 70+ extension centers to help providers gain access to information. For additional information, visit <http://www.cms.hhs.gov/Recovery/>.

Who’s running this program?

Office of the Secretary for the U.S. Department of Health and Human Services (HHS)

- *Centers for Medicare & Medicaid Services (CMS)*—\$17.2 billion for incentive payments to physicians for the adoption and “meaningful use” of an EHR.
- *Office of the National Coordinator (ONC)*—\$2 billion to launch the implementation of a nationwide interoperable, privacy-protected health information technology infrastructure as called for in the American Recovery and Reinvestment Act.
 - Dr. David Blumenthal, President-appointed National Coordinator
 - HIT Policy Committee—defines “meaningful use”
 - HIT Standards Committee—defines the certification and adoption process

How is the stimulus money distributed among the organizations?

Under the HITECH Act, CMS has been given \$17.2 billion to provide reimbursement incentives to physicians for the adoption and “meaningful use” of an electronic health record (EHR).

CMS will continue to work closely with both HHS and the ONC, which received \$2 billion in stimulus funding to define the standards of “meaningful use” and to develop a roll-out plan for, and certification and adoption of, EHRs.

What is included in the definition of “meaningful use”?

CMS is not expected to release the final “meaningful use” definition until spring 2010. However, the HIT Policy Committee published their initial recommendations for the definition of “meaningful use” in summer 2009. The framework they established focuses on a progressive vision: data capture and sharing (2011), advanced clinical processes (2013), and improved outcomes (2015) supported by five key goals: improve quality, safety, and efficiency; engage patients and their families; improve care coordination; improve population and public health; and ensure privacy and security protections.

When will the definition of “meaningful use” be finalized?

The HIT Standards Committee is now reviewing the initial recommendations for “meaningful use” as set forth by the HIT Policy Committee this summer. The Standards Committee is



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expected to release their findings in September 2009, and a final definition will be made available for public feedback at the end of 2009. CMS has announced they will publish the final definition in spring 2010 (currently delayed several months from the initial target of December 31, 2009).

Will the criteria change?

Yes, the criteria will change between 2011 and 2015. CMS will release the requirements to fulfill “meaningful use” in stages—2011, 2013, and 2015—with the goal of making the definition more comprehensive and stringent over time. While the ONC has issued recommended measures for 2011, there is only preliminary information about the “meaningful use” definitions for 2013 and 2015.

This evolving definition will likely result in re-certification of EHRs every one to two years. Because we make changes to athenaClinicalsSM for all users every six to eight weeks, we are well positioned to make necessary upgrades to our web-based software with no additional upgrade fees or software purchases required.

Who is in charge of EHR certification?

At present, no certification process has been determined by CMS, though a number of organizations have submitted themselves for consideration, including CCHIT, the most widely recognized EHR certification organization. The HIT Policy Committee recognizes the significance of the CCHIT certification process and will likely allow organizations with 2008 CCHIT certification to bypass a full certification process under new standards and instead seek certification for the additional incorporation of “meaningful use” criteria. *(athenaClinicals is CCHIT 2008 certified and we continue to release upgrades to every athenahealth client every six to eight weeks as part of our service.)*

If I meet “meaningful use” standards, how do I receive payment?

The application and payment processes for the Medicare bonus payment program have yet to be defined, though we can expect more information once the final definition of “meaningful use” is released in spring 2010. *(As part of the athenaClinicals service, our experienced account managers will help each eligible physician enroll in the reimbursement program and receive incentive payments from Medicare for the “meaningful use” of our EHR.)*

Is there a minimum threshold percentage of Medicare patients required for the Guarantee Program?

To qualify for the guarantee, the physician/practice must meet the minimum threshold requirements set forth by CMS. As of right now, there is no minimum percentage; however, you are only eligible to receive up to 75% of reimbursements for allowable charges of covered services.

For example, in order to receive a HITECH Act incentive payment of \$18,000 in the first year, a physician must be a “meaningful user” by 2011 or 2012 and receive at least \$24,000 in Medicare reimbursements within the year. A physician who receives only \$12,000 in Medicare reimbursements can only receive \$9,000 in bonus payments.



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If I purchased an EHR before 2011 can I still qualify for payment?

Yes. As long as you can demonstrate “meaningful use” of your EHR between 2011 and 2015, you will receive Medicare bonus payment(s) for the corresponding year of use. *(Because we make regular upgrades to our EHR, automatically released across our user base, practices that start using athenaClinicals before 2011 won’t have to worry about purchasing an upgrade for 2011 or ongoing maintenance to keep up with “meaningful use.”)*

Is there a difference between an EMR and an EHR?

Even though EHR and EMR are often used interchangeably by IT vendors and in the media, there is an actual difference between the terms.

An electronic medical record (EMR) is an electronic record of an individual’s health-related information. An EMR contains health-related information that is gathered within a single medical organization and managed and consulted by that organization’s providers.

An electronic health record is an *aggregate* electronic record of an individual’s health-related information. An EHR contains health-related information gathered from across multiple medical organizations (*interoperability* function) and is managed and consulted by providers and staff from those multiple entities.

As the “meaningful use” terms for care coordination and interoperability are better defined, these terms may carry more significance/weight or be used more selectively. Because athenaClinicals is already an interoperable application, we are an EHR.

I’m a pediatrician and don’t have Medicare patients. Is there funding available to me?

Yes. Medicaid has been authorized to issue bonus payments to physicians for the “meaningful use” of an EHR for a total of \$63,750 per physician over a six-year period. The Medicaid payment program will be state-run, though the CMS “meaningful use” definition will be the same across the organization (certification criteria may differ and allocation of funds will vary at the state level). athenahealth will work with pediatricians, using athenaClinicals to help them qualify for and receive these Medicaid incentive payments.

We anticipate that additional funds will be made available to pediatricians in the form of quality care incentive programs. *(athenaClinicals includes account management support that will identify these programs and help our clients enroll in them to maximize revenue.)*

Will physicians in ambulatory surgical center be eligible for bonus payments from CMS for EHR use?

No. Ambulatory surgical centers are not currently eligible. Under Medicare, institutional physicians eligible to receive the EHR incentive payments include “subsection (d) hospitals” as defined under section 1886 of the Social Security Act and critical access hospitals. Under Medicaid, these institutional physicians are acute care hospitals and children’s hospitals.

Will there be penalties if I don’t adopt an EHR?

Yes. The Medicare fee schedule amount for professional services provided by an “eligible provider” who was not a meaningful EHR user for the year would be reduced by one percent



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in 2015, by two percent in 2016, by three percent in 2017, and by between three to five percent in subsequent years.

For 2018 and thereafter, if the Secretary finds that the proportion of eligible providers who are meaningful EHR users is less than 75 percent, then the reductions will be increased by one percentage point each year, but by no more than five percent overall.

What other incentive payments are available to me?

In addition to the HITECH Act bonus payment through CMS, additional incentive payments are and will become available to you. Currently, athenahealth physicians collect an additional 2% of their Medicare reimbursements for reporting PQRI measures and another 2% for e-Prescribing (Note: the e-prescribing incentive will be mutually exclusive from HITECH Act incentive payments, and PQRI payments will likely be rolled into quality reporting programs after 2010).

There are also organizations, such as Bridges to Excellence, that currently offer providers funds for P4P reporting. Our National Clinical Intelligence Team is working closely with payers (for example, 'Quality Counts' of BCBS RI), state-run programs in 20 states, and other organizations as they develop quality reporting incentive programs. As we learn about them, we're able to capture those reimbursement requirements and embed them into the workflow as rules from our Clinical rules database.

How can I stay on top of all the changes to the HITECH Act?

Our Communications and Government Relations team is dedicated to working with decision-makers in Washington and bringing their knowledge back to athenahealth. As they continue to monitor changes, we will post news to the website and ensure that our solution responds to all requirements, so that our doctors will qualify for HITECH Act incentive payments.

With athenaClinicals, we're dedicated to doing the work to get you paid so that you can focus on taking care of your patients and running your practices. You don't have to worry about ongoing changes to HITECH standards...unless, of course, you want to.

Where can I find more information on the HITECH Act?

Please visit: www.athenahealth.com/HITECHAct