Policy Update: Federal Incentives for the Adoption of Electronic Health Records

By Chantal Worzala, PhD

This year's economic stimulus bill—the American Recovery and Reinvestment Act of 2009 (ARRA)—contains financial incentives for physicians and hospitals to adopt electronic health records (EHRs). The Congressional Budget Office estimates that through these incentives, the federal government will distribute more than \$34 billion to hospitals and physicians in the coming years. This article reviews what is currently known about the incentives and federal efforts to implement them, identifies some of the many questions that remain, and outlines some initial steps you and your practice can take to be in the best position to receive bonus payments and avoid penalties.

What Is Known

Both the Medicare and Medicaid programs will offer EHR incentives. However, physicians must choose between the two. Although the Medicaid incentives are potentially more generous, they are only available to pediatricians and other physicians when at least 30% of their patients receive Medicaid. For physicians practicing in federally qualified health centers or rural health clinics, the 30% threshold can also include other needy individuals as defined by Medicaid rules. Unfortunately, the Medicare incentive program does not provide up-front funds for adoption of EHRs. Instead, it rewards physicians who can show after implementation that they are using their EHRs to improve care and share health information.

The Medicare incentive program awards early adopters and penalizes those who adopt EHRs later or choose not to adopt them at all. Figure 1 (online only) outlines bonus amounts by year of qualification. Physicians practicing in health professional shortage areas will receive bonuses 10% higher. For physicians with fewer Medicare patients, bonus payments will be 75% of allowed charges, up to a cap. However, for most physicians, the capped amount will apply. Physicians must qualify in either 2011 or 2012 to get the highest bonus possible (\$44,000 per physician over 4 years). Observers have noted that this amount will likely not cover all of the costs of installing and maintaining an EHR system, but it does defray a considerable portion. The benefits of installing an EHR system go beyond economics to include tools for enhanced patient safety, potential for greater practice efficiencies, and greater access to information for quality improvement, practice management, and research activities.¹⁻³

Penalties for not adopting EHRs begin in 2015. Medicare payments will be decreased by 1% in 2015, 2% in 2016, and 3% in 2017 and subsequent years. Additional cuts of up to 5% are possible if fewer than 75% of physicians have adopted EHRs by 2019. Applications for hardship exceptions will be reviewed on a case-by-case basis. As with all federal policies, there are some exceptions:

- Physicians practicing primarily in hospitals, such as pathologists, anesthesiologists, and emergency physicians,

will be considered to have access to hospital EHRs and will not be independently eligible for bonus payments. The government will determine whether a physician is hospital based by site of service.

- Physicians who are part of Medicare Advantage Health Maintenance Organizations (HMOs) will not be paid directly. In this case, payments will go directly to the Medicare Advantage HMOs.
- For physicians seeing Medicare patients in more than one practice, regulations will be developed to coordinate incentive payments across practices.

Meaningful Use

To qualify, you will need to demonstrate to the Centers for Medicare and Medicaid Services (CMS) that you are a “meaningful EHR user.” This term is still being defined through a regulatory process, but by law, you will need to fulfill the following requirements, which will likely become more stringent over time:

- Use a certified EHR product that complies with federal standards for interoperability or sharing of data between electronic systems;
- Use e-prescribing software;
- Use your EHR system to exchange health information to improve coordination and quality of care; and
- Use your EHR system to electronically report on quality of care.

Implementation Plans

The ARRA has put forward an aggressive timeline for implementation of EHR incentives. The federal government has begun discussing implementation details, but the final systems and rules are not yet in place. CMS will develop a process for verifying meaningful use and sending out bonus payments and will publish a proposed set of rules in December 2009. The official Medicare rules will likely build on recommendations from a federal advisory group called the Health Information Technology (HIT) Policy Committee, which met over the summer. That committee recommended a number of measures of meaningful use that many physicians may find challenging to meet. For example, by 2011, it has been recommended that physicians be required to, among other things:

- Use computerized physician order entry for all orders, including prescriptions;
- Provide patients with electronic copies of their health information;
- Exchange key electronic clinical information, such as problem lists, medication lists, allergies, and test results, with providers of care;
- Submit electronic data to immunization registries, where required and accepted; and
- Comply with privacy and security rules of the Health Insurance Portability and Accountability Act.

The committee also laid out more stringent requirements for 2013 and 2015. In discussing its recommendations, the HIT Policy Committee noted the need to tailor specific measures of meaningful use to specialists' scopes of practice, but it did not include specific recommendations for oncology.

To avoid setting the bar too high for late adopters, the committee suggested that CMS shift the timeline of the requirements for providers adopting EHRs after 2011. Under this scenario, a physician who first adopts an EHR system in 2013 would only need to meet the 2011 requirements. Although this approach could help those struggling with EHR implementations, we will not know until later this year whether CMS will implement it. David Blumenthal, MD, the national coordinator for HIT, will also be working with additional federal advisory groups and agencies to establish technical standards to ensure that data can be shared through EHR systems (interoperability standards) and to establish a certification process for EHRs.

Remaining Questions

Despite these broad outlines, many questions remain, including:

- Given provider concerns over the work of the HIT Policy Committee, how high or low will the bar of meaningful use be set by CMS?
- What will happen if a given specialty, such as oncology, does not have many certified products suited to its needs?
- What flexibility will physicians have to use innovative approaches, such as Web-based applications or combinations of data services?
- What kinds of information exchange will count?
- How will CMS actually measure meaningful use? What will the reporting requirements be?
- Who will certify EHR products? How will the federal certification process affect the Certification Commission for Health Information Technology (CCHIT), which currently certifies EHRs? Will the government also require validation of installed systems?

How Can Oncologists Best Prepare?

If your practice has not yet implemented an EHR system, begin identifying your needs and researching your options as soon as possible (previous *Journal of Oncology Practice* IT Help Desk articles as well as ASCO's Web site, www.asco.org/ehr, provide guidance on how to choose and implement an EHR system). As you interact with vendors, ask them whether their products are currently certified. Ask if they can guarantee that their products will comply with the requirements for meaningful use and what redress you will have if they do not. Consider reviewing contracts carefully to ensure that these issues have been addressed to your satisfaction. Check vendor references to ensure that their

products are reliable and have proven track records. Be sure to include e-prescribing in your plans, and begin reporting quality data to Medicare's Physician Quality Reporting Initiative (PQRI), if you are not already doing so.

If your practice has already implemented an EHR system, discuss the incentives with your vendor. Ask if the product has been certified by CCHIT. If so, ask what year the product was certified and whether the vendor plans to update certification for meaningful use. If your EHR system is not currently certified, ask your vendor what steps are being taken to achieve certification and when certification is expected. Ask if the vendor is willing to guarantee that future versions comply with the requirements for meaningful use and what redress you will have if they do not. Consider reviewing your contract in light of these considerations. Be sure you have implemented e-prescribing, and report quality data to the PQRI.

The Medicare EHR incentives have the force of law and will be implemented on an aggressive timeline. Although specific regulatory requirements are still being developed, oncologists can take steps to prepare to qualify. ASCO will provide additional resources and information as the government's implementation plans become clear. To monitor these developments, visit www.asco.org/ehr or www.ehr.ascoexchange.org.

2009 ASCO EHR Symposium: Harnessing the EHR, From Incentives to Sustainability

With the American Recovery and Reinvestment Act of 2009 signed into law, now is the time to implement electronic health records (EHRs) in your practice. The 2009 ASCO EHR Symposium can prepare you with the knowledge and tools for success. For more information and meeting updates, visit www.asco.org/ehrsymposium.

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Author's Disclosures of Potential Conflicts of Interest

The author(s) indicated no potential conflicts of interest.

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References

1. Shulman LN, Miller RS, Ambinder EP, et al: Principles of safe practice using an oncology EHR system for chemotherapy ordering, preparation, and administration: Part 1 of 2. *J Oncol Pract* 4:203-206, 2008
2. Shulman LN, Miller RS, Ambinder EP, et al: Principles of safe practice using an oncology EHR system for chemotherapy ordering, preparation, and administration: Part 2 of 2. *J Oncol Pract* 4:254-257, 2008

3. Goldwein J: Using an electronic health record for research. *J Oncol Pract* 3:278-279, 2007