

PUBLICATION

Health IT Incentives in Stimulus Law: More Details Needed About What Qualifies

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The Health Information Technology for Economic and Clinical Health Act (HITECH) portion of the American Recovery and Reinvestment Act of 2009 (ARRA)¹ will provide much-desired funding for physicians and hospitals to invest in health information technology (health IT), which many claim will total over \$35 billion over the next five years. But HITECH gives a great deal of discretion to the U.S. Department of Health and Human Services (HHS) when implementing the new law and most of the regulations expected under HITECH are still being drafted.

Falling within one of the definitions of eligible provider under HITECH does not assure that a provider will receive incentive payments. Nor does the purchase of a certified electronic health record. HITECH provides for incentive payments to eligible providers only if they meet several other requirements in the new law, many of which are the subject of great debate as HHS drafts regulations. Many unresolved issues will have a significant impact on provider ability to participate in and benefit from the incentive programs. Therefore, it is too soon to make many business decisions about health IT investments if incentive payments are desired.

Under the current timeline final regulations will not become effective until next spring. A notice of proposed rulemaking on meaningful use is expected to be released by the Centers for Medicare & Medicaid Services (CMS) at the end of 2009. There will be a 60-day comment period; then CMS will take time to process comments and issue the final rule. That is expected in mid to late spring 2010. There is "no definitive guidance for providers" before then.