

# Executive Briefing

## The American Recovery & Reinvestment Act of 2009: “Meaningful Use”

August 1, 2009

### Overview

Within the last 2 weeks, both the HIT Standards Committee and the HIT Policy Committee have announced the next iteration of the “meaningful use” definition. “Meaningful use” is the term used for the criteria doctors and hospitals’ EHR systems must meet in order to qualify for incentive payments from the American Recovery and Reinvestment Act (ARRA). The current list of criteria is still not final, additional meetings with another announcement to the criteria will take place with a subsequent comment period occurring at the end of 2009. The time is now to start your gap assessments with current systems and start building options to address the final requirement.

### Health Reform

The US government is currently working to reduce healthcare costs in order to make health insurance available for every American. President Obama has set an aggressive schedule to complete health reform after the August recess.

- Currently, several bills are floating through Congress:
  - The House
    - Tri-Committee Bill passed July 31, 2009
      - Ways and Means Committee
      - Education and Labor Committee
      - Energy and Commerce Committee
  - The Senate
    - Health, Education, Labor, and Pension Committee (passed July 15, 2009)
    - Finance Committee (have not finalized bill)
- The Administration has also been pushing healthcare reform:
  - Met with Senate and House Democratic leadership
  - Met with Blue Dog Democrats
  - Held press conference and numerous town hall meetings

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## Background on the HIT Policy Committee

On July 17, the HIT Policy Committee met to discuss and adopt the recommendations from their work groups.

### Meaningful Use Workgroup

After the last meeting, the Meaningful Use Workgroup received 800 comments within the 10-day public comment period. For their recommendations, the group presented a revised version of the definition of “meaningful use” which would allow much more leniency for physicians on implementing an EHR. It also contained a list of EHR requirements that included the abilities to:

- Implement one clinical decision support rule relevant to a specialty or a high clinical priority
- Submit claims electronically to payers
- Check insurance eligibility electronically when possible
- Provide patients with timely electronic access to their health information
- Provide patients, upon request, with an electronic copy of their discharge instructions and procedures at the time of discharge
- Exchange health information where possible

The work group also revised the definition to allow physicians who apply for government subsidies for the first time after 2011 to only have to meet the 2011 criteria for “meaningful use” in the year they apply. This is to allow more time for doctors who may not have the resources to implement an EHR system immediately.

Another big revision is the use of Computerized Physician Order Entry (CPOE). By 2011, certified “meaningful use” physicians must use CPOE for all orders. Initially, hospitals will need 10% of all orders through a CPOE, but by 2013, they too will need to use CPOE for all orders.

### Information Exchange Workgroup

The Information Exchange Workgroup’s main concern was to determine extensively to regulate or unregulate the recommendations. They created three packages with degrees of low, medium, and high federal regulation in the hopes that three options would allow the committee and the Office of the National Coordinator (ONC) to view and consider how comfortable they would be with the risks and benefits associated with each scenario.

In addition to the recommendation that all certified networks and software meet the criteria for “meaningful use,” they also felt certification criteria should also address:

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- Messaging standards
  - Content standards
  - Identity authentication
  - Consents required by law or policy
  - Reporting of key measures
  - Auditing

### **Certification and Adoption Workgroup**

The Certification and Adoption Workgroup recommended that multiple organizations should be used to certify EHR systems, but noted that vendors would only need to get certification from one certifying organization. While no final decisions were made as to which certification bodies to use, the group did admit that CCHIT will most likely be the interim certification body. CCHIT is positioned to certify the 2011 EHR systems and have taken measures to widen their certification measures to the diverse systems in the market. Some issues were raised however as to if it was right to allow a small, private organization, with ties to trade associations, to be the certifying body of the federal government.

The workgroup also recommended that certification criteria be based on “meaningful use” and include a range of software sources. This will improve:

- Security
- Privacy
- Interoperability
- Transparency

### **HIT Standards Committee**

During their July 21 meeting, the Clinical Quality Workgroup, Clinical Operations Workgroup, and Privacy and Security Workgroup all presented their updates to the overall committee. The Standards Committee approved their recommendations and passed them on to the ONC.

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## Clinical Quality Workgroup

The Clinical Quality Workgroup presented three initial tasks they performed for their recommendations. Their first task was to identify a potential set of existing standardized performance measures that correspond to the Policy Committee's quality measure concepts. The group focused on reviewing the current industry standard performance measures to decide what set of measures should be used to determine improvements in care. These standards include:

- The National Quality Forum Database
- CMS Performance Measures
- The Hospital Quality Alliance
- Accrediting Entities
- The Physician Consortium for Performance Improvements

Their second task was to identify the "data types" that must be captured to calculate these measures. Currently, they have identified 56 "data types" from the Health Information Technology Expert Panel (HITEP), convened by the National Quality Forum (NFQ).

Lastly, the group will need to handoff their work to the Clinical Operations Workgroup to identify HIT standards, although this has yet to be completed.

## Clinical Operations Workgroup

For their charge, the Clinical Operations Workgroup reviewed proposed "meaningful use" objectives and measures with a focus on quality measures. They also prepared a two-phased process which will identify EHR standards and then measure the feasibility of widespread implementation of that standard by 2011 or 2013 and beyond.

Their recommendations included that "meaningful use" will be best achieved by using the recognized and accepted Healthcare Information Technology Standards (HITSP) capabilities for 2011 and 2013. Additional alternatives should be developed for the legacy providers with EHR systems to address unstructured documents, local and proprietary codes, and current quality measures for "meaningful use." These alternatives are not recommended for 2013 and beyond. The workgroup also recommended that ONC determine how it will address current gaps in standards via HITSP or other standards groups.

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## Privacy and Security Workgroup

Currently, the majority of the American public is still not confident their medical records would remain confidential if stored electronically. The Privacy and Security Workgroup acknowledged that there are risks associated with introducing computers and networks to a system that is primarily paper-based. As providers rely more on EHRs, there is a chance they could be hampered by corrupted data or service interruptions. The system would need privacy and security mechanisms in place that will:

- Enable providers to record and enforce consumers individual preferences on who can see or use their personal health information and for what purposes
- Protect their data from being changed or deleted
- Ensure that the information is available to providers wherever patients need treatment or care

Another issue raised was about patients' rights to withhold information from their Personal Health Record (PHR), such as psychiatric treatment. And if a patient was allowed to withhold information, would it be possible to access that information in the case of an emergency.

The group recommended that standards for security and privacy be "embedded" within the certification of products and as a part of the "meaningful use" demonstration process by providers. They also feel the "meaningful use" criteria should be rules-based and include:

- Secure IT infrastructure
- Current HIPAA risk analysis and risk-management plan
- Current HIPAA contingency plan (back-up, disaster recovery, emergency operations, testing and revision, criticality analysis)
- Specify certified features and their operational use

## Conclusion

From here, the HIT Policy Committee's recommendations will be sent for approval to ONC for HIT and the Centers for Medicare and Medicaid Services (CMS). CMS will then publish their interim final rule on "meaningful use" and host its public comment period in the fall of 2009. An interim final rule should be published in the National Register by December 31, 2009. Instructions on how to submit public comment can be found at <http://healthit.hhs.gov>.