

Healthcare Cauldrons in Washington: HIM Issues Abound in Federal Bills and Initiatives

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This season Washington is like a healthcare cauldron, boiling away with bills and initiatives. Here's a taste of a few that have come to the surface for HIM.

Healthcare Reform

As fall began, five congressional committees had released five different health reform bills. President Obama had also put forth a collection of bill ideas in a speech to Congress in mid-September.

It is unclear whether one bill can be fashioned out of the five with enough support to pass both chambers of Congress and be signed by the president. But pressure is mounting for a bill to be passed this fall and perhaps be tweaked in the years to come.

As an allied health professional association, AHIMA has not been involved in the funding and delivery mechanisms of the various bills. However, AHIMA has been involved in the infrastructure issues of reform, especially in the area of administrative simplification.

The administrative simplification provisions in the Senate and House bills address the HIPAA transaction standards, the process by which they are updated, and the need for a single uniform guide for the use of the HIPAA transaction standards to replace the many guides that exist in the industry today.

In June several provider and payer industry associations promised the president they would work to reduce the cost of healthcare administration by some \$500 billion. The administrative simplification language in the various bills echoes some of these promises, and there is reason to believe that the final legislation will carry these provisions.

AHIMA is also working to support allied health education funding, though the likelihood that such a provision will make it into the reform bill is doubtful since Congress placed significant educational funds in the American Recovery and Reinvestment Act. However, the ARRA education money is short term. Thus AHIMA will continue to advocate for a longer term means to support HIM education in light of the need to increase the HIM workforce and support EHR training for allied health.

AHIMA has also been advocating for a public-private coordinating body for US healthcare terminologies and classifications, similar to those in many other countries. Currently there is no such provision in the health reform bills, but the association will continue to push for such an entity, especially in light of recommendations from the Health IT Standards Committee that terminologies such as SNOMED CT be used for quality measurement and other clinical and administrative reporting in EHRs.

HITECH

ARRA's Health Information Technology for Economic and Clinical Health (HITECH) Act provisions are fast becoming fact as the Office of the National Coordinator for Health Information Technology (ONC) and Office for Civil Rights turn the legislation into regulation and guidance.

The two advisory committees for health IT policy and standards met several times over the summer. The initial meetings dealt with the "meaningful use" criteria called for in the Medicare and Medicaid incentives section of ARRA.

While the policy committee recommended revising the timeline for the incentives, the standards committee worked with the National Quality Forum and the Healthcare Information Technology Standards Panel to identify standards that could be used to identify the data necessary to report the measures.

Currently the Centers for Medicare and Medicaid Services (CMS) are developing the various incentive formulas for a notice of proposed rule making. National health IT coordinator David Blumenthal has indicated that this notice will come out toward the end of December, with a 60-day comment period.

Optimistically, this would put a final rule out by the middle of spring, and the initial incentives are scheduled to go into effect October 1, 2010 (FY2011), for institutions and January 1, 2011, for ambulatory providers, according to ARRA.

AHIMA will comment on the notice of proposed rule making when it is published, and the association anticipates many comments from other organizations.

Along with the meaningful use criteria, HITECH also outlined the need for EHR certification and resources for EHR implementation. The health IT policy committee held hearings on certification in July. There is considerable speculation as to what will be forthcoming in the form of a notice of proposed rule making from ONC.

Meanwhile, the Certification Commission for Healthcare Information Technology has announced steps to align its certification with the meaningful use criteria. However, the final rule from CMS must be published first.

ONC has already begun working on resource availability for EHR implementers through regional extension services, a Health Information Technology Research Center, and other services. ONC plans to select all of the regional centers—approximately 70—by June 2010. ONC has also promised grants and other funding for education, including a variety of HIM programs as well as training for individuals employed in the extension centers.

HIM professionals and state associations must watch carefully for these notices, some of which will have very short deadlines. States and state-designated organizations can also receive funds, so state-designated organizations should look for activities that could affect the implementation of EHR systems and electronic health information exchange.

Privacy

The Office for Civil Rights and ONC have undertaken a number of privacy activities that will result in proposed rules as outlined in subpart D of HITECH.

The health IT policy committee has already begun to hold hearings on various aspects of the subpart requirements, and the standards committee, which is currently addressing privacy and security standards as part of meaningful use, will also be looking at these requirements. There has been no announced timetable for notices of proposed rule making related to privacy, but a number of HITECH requirements are scheduled to go into effect on February 17, 2010.

Comments on the Health and Human Services breach notification interim final rule (IFR) were due October 23. A number of consumer-related groups, and even some members of Congress, have concerns about the provision for “harm” assessments, which enables a provider to avoid sending consumers a breach notification if the provider determines that the breach poses no risk of harm to the consumer.

The problem here, according to concerned groups, is that the rule provides no definition of “harm,” and the Federal Trade Commission version of the notification requirements—which affects entities not covered by HIPAA—makes no distinction for levels of harm and does not allow a harm exception. Legal groups are asking for a clearer means of dealing with the differences in business associates that may or may not be an agent of a HIPAA-covered entity.

The Office for Civil Rights will review the comments and may revise the rule.

Entities are also concerned with the revision of business associate agreements. HITECH requires that these agreements include the new and direct requirements placed on business associates and the partnership processes that must exist around breach notification. Many hospitals have indicated that they have more than 100 different business associate agreements. The Office for Civil Rights plans to provide more guidance.

The Office for Civil Rights has also recently taken full control of enforcing the HIPAA privacy and security requirements, on which HITECH placed additional emphasis. AHIMA expects to see the Office for Civil Rights play a more visible role than in the past, including auditing covered entity compliance with the HIPAA and HITECH requirements.

ICD-10-CM/PCS Transition

In September the ICD-9-CM Coordination and Maintenance Committee held its fall meeting and a hearing on freezing the affected code sets prior to 2013. AHIMA recommended a coding freeze beginning October 1, 2011, which was similar to a number of other recommendations. AHIMA's comments are available on its Advocacy and Public Policy Center Web site at www.ahima.org/dc. CMS will announce a final decision in the next few months.

Meanwhile CMS and others are encouraging all covered entities to move forward with upgrading HIPAA standards and preparing for ICD-10.

Although much is still boiling in Washington, a great deal of progress has been made this year on issues related to HIM. The HIM profession has many opportunities to move our healthcare information goals forward.

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