

Missing Pieces: Healthcare Waits on Regulations That Will Fill in the ARRA Puzzle

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By Dan Rode, MBA, CHPS, FHFMA

As this issue goes to press, healthcare remains unsettled, waiting on the publication of key rules related to ARRA and the HITECH Act.

Until these rules appear, providers cannot assess with any certainty their willingness and ability to apply for the meaningful use incentive program, vendors and potential certifying bodies cannot begin certifying health IT for use in the program, and covered entities cannot plan in detail their compliance with modifications to the HIPAA privacy and security rules.

Meaningful Use and Certification

The Centers for Medicare and Medicaid Services were expected to publish the final rules for meaningful use in June. There has been some speculation that the eligibility criteria may be more flexible than those in the proposed rule.

The Office of the National Coordinator (ONC) was also expected to finalize the temporary process for the certification of health IT products used in the meaningful use program.

The release of these two rules will set other projects in motion that are related to the start of the meaningful use program on October 1, 2010. States have the option to begin their Medicaid incentives earlier, which some may do.

The community colleges awarded grants to develop six-month electronic health record (EHR) implementation training programs are expected to have these programs in place by October. Similarly, the regional extension centers are scheduled to be functional by October to assist providers with EHR implementations, especially small physician offices and rural providers.

There are a number of other ONC workforce-related projects that feed into this mix. Not to mention that educational institutions have their usual new term or semesters starting during that time.

The certification process will be key to those organizations interested in offering certification for EHRs and EHR modules. These organizations must apply with ONC and be accepted and accredited.

Certification programs must include the standards adopted through an interim final rule by ONC and the Health and Human Services in February. However, these standards could change when the final rule is published.

With so many pieces still to fall into place and the summer well begun, it is uncertain if any entity will be able to qualify for meaningful use incentives when the program opens on October 1.

Privacy and Security on Hold

Whether the HITECH privacy and security rules will have been published by July 1 is still a very real question at press time; they were expected in May but were not published.

However, the Office for Civil Rights (OCR) did issue a request for information regarding the HITECH accounting for disclosure provisions that month.

Most provider and provider-related organizations responded with concerns that providing such information would be costly and unlikely to supply patients with the information they may be seeking. AHIMA's comments on the request for information are available at www.ahima.org/advocacy/comments.aspx.

It is clear from the questions in OCR's request for information that the burden and challenges of accounting for disclosures is already understood. The question is whether there is any means to meet the legislative requirement that do not require the implementation of time-consuming and costly processes. AHIMA expects OCR will publish its findings to further educate the healthcare industry and consumers.

In May OCR also released guidance on risk analysis, available at www.hhs.gov/ocr/privacy/hipaa/administrative/securityrule/radraftguidance.pdf. This guidance related primarily to security under HIPAA, much of which many covered entities have accomplished already.

AHIMA is updating its 2003 practice brief "Security Risk Analysis and Management: An Overview" and will submit a copy to OCR when it is published in the AHIMA Body of Knowledge later this month.

AHIMA also was invited to address the National Institute on Standards and Technology-OCR Privacy and Security Conference. AHIMA and other associations urged NIST and OCR to work with associations and the industry to assist providers in better understanding security practices and technology to secure individual health information.

According to the schedule established in the HITECH Act, in August OCR will release its proposed rule on accounting for disclosures as well as guidance related to HIPAA's minimum necessary and the use of limited data sets. HIPAA covered entities must consider these new and proposed rules as they move forward on the other implementations under way such as meaningful use and the HITECH privacy and security rules.

Advocating on the Home Front

In May I had the honor of addressing a Women in Government program on workforce for women in state legislatures. AHIMA was invited to discuss the HITECH workforce provisions; however, conversations throughout the meeting also dealt with the impact of electronic health information and privacy.

Few legislators were aware of the HIM profession. They knew "medical records" but did not understand the roles of HIM professionals and how the profession fits into the issues of health IT adoption, implementation, and protection.

One legislator from the Midwest, a nurse, told me that once she realized there was an HIM profession she saw it was the "perfect group" to help the industry and states implement EHRs and health information exchange.

Most of the legislators present asked why they had not had contact with HIM professionals and how they could make sure that HIM is included as their state moved forward with the task of implementation. Likewise, once they understood the HIM professionals' education needs, they asked what they could do to help these programs.

As we talked about programs we also discussed privacy and security. I was asked who they could turn to for more information, and I promised them state contacts.

I hope AHIMA can work with this group in the future, and given the health information tasks ahead of us, there should be opportunity. The potential exists in each of our states to meet with these lawmakers to make progress.

My meeting with Women in Government proved to me that we have a message to give and an audience to hear us. AHIMA is committed to helping the industry whenever possible, and we are most successful when individual members help get the message out to their state legislators.

I was amazed at the number of representatives at the event who have other jobs-nurses, teachers, realtors, and others. HIM professionals may want to consider getting involved at the state level. Those who do not can consider how they might influence the candidates running in their state and federal elections this year.

This is the time to let candidates know the HIM needs, as well as the other needs, on your list.

Advocacy Resources

In May AHIMA launched a new face to its Web sites, which included redesigned advocacy pages. AHIMA's advocacy page now includes updated news and resources to use at work and in personal and state advocacy efforts. Learn more by visiting www.ahima.org/advocacy.

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