

State of Healthcare Reform: A Review of the Status of ACA, ARRA, and HITECH before the New Congress Convenes

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By Dan Rode, MBA, CHPS, FHFMA

This fall advocacy took a back seat to the mid-term elections. Candidates from both parties are offering a wide variety of viewpoints on the current issues facing the US.

One of the major issues in the election is how our nation will address the recession while also contending with real fiscal issues such as the war in Afghanistan, education, and healthcare, which are making demands on a deficit budget.

AHIMA's legislative course in 2011 will depend in part on the outcome of the elections: the candidates elected and whether the new 112th Congress will be more cooperative than its predecessor.

Healthcare, however, is certain to return to Washington as a major issue next year.

The healthcare industry has begun to feel the effects of the Patient Protection and Affordable Care Act (ACA), the American Recovery and Reinvestment Act (ARRA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act.

In the time before the new Congress convenes, it is helpful to review the status of these major, HIM-related healthcare initiatives.

Administrative Simplification

ACA includes administrative simplification provisions (section 1104), which AHIMA championed. This legislation has already begun to change healthcare administrative processes.

Over the summer the National Committee on Vital and Health Statistics (NCVHS) took on the task of determining what group or groups should be charged with developing the user guide for the HIPAA eligibility and claims status transactions. The NCVHS Standards Subcommittee also discussed whether the same group or groups should be charged with developing all of the guides for the approved transactions.

NCVHS recommended that the Council for Affordable Quality Healthcare (CAQH) coordinate and develop the guides for the two transactions; it selected the National Council for Prescription Drug Programs to address the pharmacy-related affiliated transactions. NCVHS did not recommend which groups would address the remaining transactions.

AHIMA supported the CAQH bid. CAQH has already been working on guides or operating rules associated with the eligibility transactions through its Committee on Operating Rules for Information Exchange (CORE) project, which AHIMA also endorsed. CAQH has also been very inclusive, inviting stakeholders to participate in its processes.

AHIMA supported the idea of one group developing all of the guides because of the overlapping nature of the transactions. While this is not the direction NCVHS has chosen at this point, the idea of one set of operating rules rather than the multiple guides currently in place is a major improvement.

The NCVHS Standards Subcommittee also addressed the issue of health plan identifiers. The subcommittee discussed just what the identifier was expected to identify: health plans, subunits of health plans, health plan products, or all three. In the end the subcommittee suggested the Department of Health and Human Services (HHS) call a stakeholder conference to address the issues it raised.

AHIMA is optimistic that HHS will now consider permitting upgrades to the HIPAA transactions every few years rather than the current decade approach.

Sensitive Healthcare Data

In June the NCVHS Privacy and Security Subcommittee heard testimony on how covered entities will sequester and control sensitive health information when requested to do so by patients. Over the summer the subcommittee spent considerable time trying to reach consensus on how these data could be sequestered, especially in light of the movement toward electronic health records (EHRs) and health information exchange.

In the end and without full consensus, the subcommittee recommended that HHS identify technology and establish pilots to determine how EHR systems are handling existing data sequestering requirements for items such as psychiatric notes and the Substance Abuse and Mental Health Services Administration rules. In addition NCVHS suggested HHS identify state requirements that might also affect any requirements for such sequestering.

The Proposed HITECH Privacy Rule

AHIMA has had informal discussions with some of the subcommittee members and submitted a lengthy comment letter on the proposed HITECH privacy rule in September, explaining how difficult it would be to flag and restrict this information from being sent to health plans. AHIMA also raised process concerns related to providing protected health information (PHI) to patients when the entity has an EHR.

AHIMA members noted that there was a conflict between the proposed rule and the meaningful use requirements related to the timing and format when providing PHI.

They also are keenly aware of a disconnect between the principle that individuals have a right to access their PHI and their existing systems' lack of capabilities to provide such access, either to view the record or receive a copy of it.

In addition, HIM professionals often raise a concern over the current cost of producing a copy of a health record. The full cost is not recognized by many states or the proposed HITECH rule.

AHIMA's comment letter on the proposed rule is available online at www.ahima.org/advocacy. It addresses these concerns and raises several others.

It is not clear when the Office for Civil Rights will release the final rule on this set of requirements. OCR has also not indicated when it will finalize the rule on breach notification and the proposed rule on accounting of disclosures, the latter of which was due in August.

HITECH Meaningful Use

The Centers for Medicare and Medicaid Services (CMS) will start accepting applications for the meaningful use incentive program in January 2011. On October 1, 2010, eligible hospitals using certified EHRs could begin counting the days to qualify for meaningful use incentives (90 days in the first year). Eligible providers can begin this process on January 1.

At this point CMS has not outlined the application process. At press time, the Office of the National Coordinator for Health IT has approved three organizations to test and certify EHRs temporarily. Vendors are scrambling to get their products (either EHRs or EHR modules) certified in time.

While stage 1 is being implemented, ONC's HIT Committees are addressing stage 2. The policy committee has announced plans to have its recommendations for stage 2 by next June, and the standards committee is looking at a variety of issues, including the governance of terminologies and classifications associated with meaningful use.

AHIMA continues to monitor these committees and subcommittees and will address a number of issues, including the terminologies and classification as well as the need to identify a legal health record.

ICD-10 Implementation

ICD-10-CM/PCS implementation continues to move ahead. In September, the ICD-9-CM Coordination and Maintenance Committee announced it will be “freezing” the ICD-9-CM and ICD-10–related code sets effective October 1, 2011.

The committee will continue to meet twice a year during the partial freeze. At the meetings it will solicit comments on whether requests for new diagnosis or procedure codes should be created to capture new technologies or diseases. The freeze will last until October 2014 and should allow vendors, trainers, and implementers to complete the ICD-10 implementation more easily.

CMS has been holding programs and webinars to address the ICD-10 and HIPAA 5010 upgrade implementations. CMS has provided a number of resources on its Web site, as has AHIMA.

By now most vendors and HIPAA covered entities should have completed the upgrade to the 5010 applications. Entities should begin testing these applications and the exchange of transaction data in January. The compliance date for the 5010 upgrade is January 1, 2012.

The ICD-9-CM Coordination and Maintenance Committee also discussed the use of general equivalence maps but has not resolved how health plans will use these crosswalks for reimbursement. AHIMA is working with an industry group to help determine a uniform approach for reimbursement, secondary billing, and other revenue cycle issues.

Clearly ACA, ARRA, and HITECH have started a process that will need to be followed for many years. AHIMA will keep members updated on where the industry is heading.

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