

# Summer Healthcare Forecast: Reform, ARRA Make for an Unsettled Season in DC

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by **Dan Rode** , MBA, CHPS, FHFMA

The summer forecast calls for heat and activity—at least in Washington, where Congress and the Obama administration continue to work on healthcare reform, ARRA's healthcare provisions, and privacy and security issues.

## Healthcare Reform

The healthcare reform debate is under way, though not necessarily in a bipartisan manner. Lines are being drawn on issues including private versus public healthcare insurance options, means of funding and reimbursement, projections on the uninsured, and whether and when the Medicare trust fund will go bust. Meanwhile, with the economy still in a fix, fewer individuals are seeking care and healthcare employment is experiencing both shortages and layoffs.

Whether a reform bill can be shaped and approved within 2009 remains to be seen, and bets on just what it will look like are hard to find. The role of information and IT has taken a back seat to structure and philosophy, but AHIMA's advocacy staff are monitoring the situation and looking for ways to educate Congress on the need and role for quality information and standards in the final healthcare system model as well as the HIM role.

While the American Recovery and Reinvestment Act, or ARRA, funded some HIM work force and education provisions, funding must be expanded for HIM education and other allied health professionals. AHIMA is leading efforts to seek funding for allied health education under Public Health Title VII as part of the healthcare reform package.

Funding for Title VII declined significantly over the last two decades and became nonexistent in the last several years. AHIMA is seeking renewed funding and the development of an office for allied health in the Health Resources and Services Administration. Look for updates in AHIMA's *e-Alert* e-mail briefing and possible steps to take via AHIMA's Advocacy Assistant at [www.ahima.org/dc](http://www.ahima.org/dc).

## ARRA

The ARRA forecast has featured heat and activity since February, yet many issues and regulations still need to be defined. The policy and standards committees are formed and meeting, and the Office of the National Coordinator for Health Information Technology (ONC) and other Health and Human Services (HHS) agencies and offices continue to pursue the various requirements of this wide-ranging bill.

The number-one issue is defining "meaningful use," the basis on which healthcare providers can receive incentive monies under Medicare or Medicaid beginning in October 2010 for hospitals and January 2011 for physicians. In April the National Committee on Vital and Health Statistics held hearings on the definition of meaningful use, receiving oral and written testimony from more than 100 organizations (a summary of the testimony is available at <http://ncvhs.hhs.gov>). The policy and standards committees and the Centers for Medicare and Medicaid Services also took up the definition.

AHIMA's chief operating officer Sandy Fuller provided comments at the April NCVHS hearings, and the association developed a summary and full statement on the subject, posted at [www.ahima.org/dc/](http://www.ahima.org/dc/). CMS must publish a definition before the end of the year and outline how providers will qualify for the initial incentives.

The incentives are expected to be incremental over time (2011–2015) and include some reference to e-prescribing, quality reporting, and possibly laboratory result reporting. With the clock ticking, providers must begin planning now to receive these incentives in the initial years.

Provisions relating to technology research and development programs and the health IT extension program (featuring regional technology extension centers) were released for comment in late May. HIM is expected to figure prominently in these programs, and for that reason, AHIMA met with national coordinator for health IT David Blumenthal, MD, MPP, in early June to discuss the HIM professional's role in ARRA's HITECH provisions, the section related to health IT.

States and state-related health information exchange programs are also lining up to access the funding that should be announced in the next few months. In late May members of Congress began meeting with the various constituent groups identified in the HITECH Act to push for coordinated state activities to allow their state to maximize the funding it might receive.

As noted in last month's column, HIM professionals need to be involved in these state efforts as they will potentially affect state HIM education programs, health information exchange, and electronic health record implementation funding (not to be confused with the Medicare and Medicaid incentive money coming in 2011).

HHS plans to monitor the spending and use of ARRA funds carefully. It has set up two Web sites related to its ARRA efforts. The site [www.hhs.gov/recovery](http://www.hhs.gov/recovery) provides an overview and status of all ARRA programs that HHS administers. HHS's Office of Inspector General has set up [www.oig.hhs.gov/recovery](http://www.oig.hhs.gov/recovery) to "assess whether HHS is using the \$135 billion in Recovery Act funds in accordance with legal and administrative requirements and is meeting the accountability objectives defined by the Office of Management and Budget (OMB)."

## Privacy

The HITECH Act also requires HHS to issue interim final regulations requiring HIPAA covered entities and their business associates to notify patients of breaches of unsecured protected health information. The Federal Trade Commission (FTC) is responsible for outlining regulations for entities not covered under HIPAA.

The act defines "unsecured protected health information" as protected health information that is not secured through the use of a technology or methodology specified by the HHS secretary. The provision requires the secretary to issue guidance specifying the methods within the technologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals.

HHS is expected to produce rules on this subject in early summer. The FTC issued its guidance in late April in a proposed rule related to the reporting of breaches and notification.

HHS and the FTC are expected to issue final rules no later than September, with compliance beginning a month later. AHIMA commented on the FTC's proposed rule and responded with comments to HHS questions associated with its guidance announcement (see [www.ahima.org/dc/](http://www.ahima.org/dc/)). Analysis on the final rules will be forthcoming when the rules are announced.

AHIMA has also met with members of the healthcare and IT sections of the Government Accountability Office who are in the process of analyzing the status of "treatment disclosures" for Congress under the HITECH provisions. AHIMA members and staff involved in the discussions provided a background on use and protection of health information as well as current developments in standards, confidentiality and security practices, and the environment of health information exchange.

## Changes in the Coding Front, Too

CMS published its proposed notice for the Medicare Inpatient Prospective Payment System, including ICD-9-CM coding updates. It suggests that "improved coding" created under the MS-DRG program is responsible for increased hospital reimbursement. To counter this, CMS proposes a percentage deduction in reimbursement effective in October.

The proposal also addresses new quality reporting requirements, though it did not increase the number of "never events." AHIMA's comments appear online at [www.ahima.org/dc/](http://www.ahima.org/dc/).

Coding for reimbursement will also be a topic of discussion at this fall's ICD-9-CM Coordination and Maintenance Committee meeting, where the issue of freezing the coding system in preparation for ICD-10-CM/PCS will be raised. The idea of having the same ICD-10-CM/PCS code set for some period before and after the October 1, 2013, compliance date has been raised to facilitate the upgrading of coding software as well as training of coders.

In late May HHS secretary Kathleen Sebelius and Attorney General Eric Holder announced new efforts on the part of the federal government to pursue billing fraud. In addition to the work already under way at HHS through the Office of Inspector General and the Recovery Audit Contractor program, a new task force has been created to search for fraud.

This announcement followed the president's signing of the Fraud Enforcement and Recovery Act, which in part further rewards whistleblowers who identify fraud.

It is a time of great activity both in planning and preparing for the future of our healthcare system. Stay tuned to AHIMA for updates and opportunities to provide input.

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