

**SUMMARY OF
HITECH PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

Pg (pdf)	Sec	Title	Fund Type (Grant, etc)	Description	Purpose	What	Who	Timing
163		Office of Secretary, ONCHIT Funding	Allocation	Provides an additional amount for ONC of \$2,000,000,000 \$300,000,000 of amount to support regional and sub-national HIE efforts \$20,000,000 of amount to be transferred to NIST	To carry out HITECH 0.25 percent of funds provided may be used for administration of such funds	Estimated Outlays for HIT 2009 \$ 417,000,000 2010 \$ 178,000,000 2011 \$ 4,741,000,000 2012 \$ 6,469,000,000 2013 \$ 6,463,000,000 2014 \$14,231,000,000 2015 \$ 3,848,000,000	Estimated Savings in Out Years 2016 -\$5,535,000,000 2017 -\$4,980,000,000 2018 -\$2,780,000,000 2019 -\$2,233,000,000 Total Outlays: \$20,819,000,000 ¹	2009 Operating Plan no later than 90 days after enactment.
292	3001	Subtitle A: Promotion of HIT: Office of the National Coordinator for HIT (ONC)	N/A	Establishes the Office of the National Coordinator to ensure the security and protection of patient's health information while improving the quality of care and reducing health care costs.	N/A	ONC duties: establish standards, establish HIT Policy and Standards committees, strategic plan, website, voluntary certification program recognition, reports & publications, assess impact on communities, estimate funding required for federal, regional, governance for HIE network	Chief Privacy Officer of ONC- advises ONC on privacy, security, & data stewardship of HIE and coordination with other Federal, State & regional efforts, & with foreign countries.	Upon Enactment
304	3002	ONC: HIT Policy Committee	N/A	Establish a HIT Policy Committee	Make policy recommendations to ONC re: implementation of NHIN technology infrastructure Required areas for consideration, technology for: <ul style="list-style-type: none"> • Data segmentation • Limited data sets • Accuracy of data • Accounting of Disclosures • Quality of care • De-Identification of data • Demographic Data • Needs of children 	Other areas for consideration: <ul style="list-style-type: none"> • Use of national NHIN for • Public reporting • Biosurveillance & public health • Research • Drug Safety • Telemedicine technologies • Home health care • Etc. 	Members: 1 apptd. by Sectary 1 rep of DHHS 1 public health official 2 apptd. by Senate 2 apptd. by House 13-Comptroller General of US <ul style="list-style-type: none"> • 3 advocates for patients or consumers • 2 providers • 1 labor • 1 privacy/security expert • 1 researcher • 1 payer • 1 vendor • 1 purchaser/employer • 1 quality measurement 	45 days from enactment to appoint members or Secretary of DHHS does appointments Rules by 12-31-09.
315	3003	ONC: HIT Standards Committee	N/A	Establish an HIT Standards Committee	Make recommendations to ONC re: standards, implementation specifications & certification criteria for HIE	Harmonize HIT standards Pilot test standards and imp. spec. Consistency with SSA 1173	Members: at least reflect: providers, ancillary h/c workers, consumers, purchasers, plans, tech. vendors, researchers, Relevant Fed. Agencies, individuals w/ tech. expertise on: <ul style="list-style-type: none"> • Health care quality, • Privacy & security, and • Electronic exchange and use of health information 	No later than 90 days from title enactment, Committee develop schedule for assessment of policy recommendations

¹ Based on Congressional Budget Office Estimates for the conference agreement for HR 1, American Recovery and Reinvestment Act of 2009.
Revised 02-25-2009

Pg (pdf)	Sec	Title	Fund Type (Grant, etc)	Description	Purpose	What	Who	Timing
324		Application to Federal Agencies	N/A	Coordination of HIT for federal agencies	N/A	N/A	N/A	N/A
333	13201	Research & Development Programs: Healthcare Information Enterprise Integration Research Centers	\$20,000,000	NIST Director establishes assistance program to institutions of higher education to establishment Multidisciplinary Centers for the Health Care Information Enterprise Integration	General innovative approaches to h/c information enterprise integration by conduction multidisciplinary research on systems challenges to h/c delivery, Develop & use of HIT and other complementary fields including HIT security and integrity	Applications to NIST	Higher Education Institutions	Unknown

Subtitles C Grants and Loans - B: Incentives for the Use of HIT. the HIT Infrastructure, Section 13301 (Page 337)

Pg (pdf)	Sec	Title	Fund Type (Grant, etc)	Description	Purpose	What	Who	Timing
337	3011	Immediate Funding for HIT	Not Available	Invest in HIT infrastructure	Allows for and promote the electronic exchange and use of health information for each individual in US	<ul style="list-style-type: none"> HIT architecture that supports nationwide HIE, connecting health exchanges, may include updating & implementing infrastructure w/in different HHS agencies Develop & adopt certified EHRs for providers not eligible under Title XVIII or XIX of SS Act for adoption of such records Training on and dissemination of info on best practices to integrate HIT Infrastructure & tools for promotion of telemedicine Promotion of interoperable clinical data repositories/registries 	Invest funds through ONC, HRSA, AHRQ, CMMS, CDC, Indian Health Svc (IHS) to support the following (1)-(8	Unknown
340	3012	HIT Implementation Assistance	Direct funding from DHHS Awards for 4 years 50% fed funds	HIT Extension Program HIT Research Center HIT Regional Centers	Establish a health information technology extension program Establish a health information research center Provide assistance for the creation and support of regional centers	To assist providers to implement and use EHR technology To provide technical assistance and best practices for HIT use to accelerate efforts to adopt, implement and utilized HIT To provide assistance for creation and support of Regional Centers	DHHS DHHS US based nonprofit organizations	90 days from enactment – draft program description for applicants
348	3013	State Grants to Promote HIT	Grant-MOE: 2010 – Up to DHHS Secty. 2011 - Y1= \$1:\$10; 2012 Y2= \$1:\$7; 2013 Y3= \$1:\$3	Planning Grants - Implementation Grants	Facilitate & expand electronic movement and use of health information among organizations	Planning Grants Implementation Grants	State or State Designees must consult with: healthcare providers, plans, patients or consumer orgs, HIT vendors, purchasers and employers; public health agencies, health professions schools, universities & colleges, clinical researchers, HIT users	DHHS has 90 days from signing to operationalize -Unknown application period -Unknown evaluation period -Unknown funding date

Pg (pdf)	Sec	Title	Fund Type (Grant, etc)	Description	Purpose	What	Who	Timing
355	3014	Competitive Grants to States & Tribes for Development of Loan Programs to Facilitate Adoption of EHRs	Grants for Competitive Loan Program- can use 4% annually for administration MOE \$1 to \$5 federal	Establish programs for loans to healthcare providers	Establish EHR technology loan fund to facilitate use of EHR technology, train personnel and improve eHIE	State must submit strategic plan based on ONC guidelines Loans to health care providers not exceeding market interest rates for no more than 10 years	States or Indian Tribe	No awards under this program prior to 1-1-2010 -Unknown date for strategic plan submission
363	3015	Demonstration Program - Integrate IT into Clinical Education	Grant- Competitive; peer review 50% federal funding limit	Secretary may award grants to carryout demonstration project to develop academic curricula integrating certified EHR tech in clinical education of health professionals. <i>Limitation:</i> cannot purchase hardware, software, or services	Collaborate with 2 or more disciplines Integrate certified EHR technology into community-based clinical education	Submit application & strategic plan for integrating certified EHR technology in the clinical education of health professional to reduce medical errors and enhance healthcare quality	School of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other gradual health professions school; A graduate school of nursing or physician assistant studies An institution with a graduate medical education program in medicine, osteopathic medicine, dentistry, pharmacy, nursing, or physician assistance studies	Report due to Congress on specific projects established due 1 year after enactment
367	3016	Information Technology Professionals on Health Care	Assistance	Financial Support: Secretary may not provide more than 50% of costs of any activity	Assistance to establish or expand medical informatics education programs, including certification, undergraduate, and masters degree programs, for both healthcare & IT students to ensure rapid and effective use and development of HIT	Develop & revise curricula in med health informatics & related disciplines Recruiting & retaining students to the program Acquire equipment necessary for student instruction in these programs, including installation of test bed Establish or enhance bridge programs in health informatics fields between community colleges & universities' networks	Institutes of higher education or consortia thereof	Not specified
471	3018	Authorization for Appropriations	N/A	To carry out this subtitle, funds are authorized to be appropriated as may be necessary	N/A	Appropriation Authority	DHHS	For each fiscal years from 2009-2013 (until expended).

PRIVACY AND SECURITY PROVISIONS
(No immediate implementation decisions required)

Pg (pdf)	Sec	Title	Description	Purpose	What	Who	Timing
369	13400	Privacy	Extends HIPAA privacy and security protections to HIT entities	N/A	HIPAA Privacy and Security Provisions	Regulations to be Issued by DHHS	Unless otherwise indicated – 12 months after enactment
373	13401	Security and Penalty Provisions	Apply to Business Associates	Extend HIPAA security provisions and penalties to Business Associates of covered entities	Business Associate agreements shall incorporate additional requirements of title	Business Associates of HIPAA Covered Entities	Not specified - 12 months after enactment
375	13402	Breach Notifications	Requires covered entities to notify individuals whose unsecured information has been breached Requires business associates to notify covered entities about breaches	Notify individuals whose information has been breached within 60 days of discovery to allow for individuals to take steps to protect themselves from potential harm	Written notification by mail and if urgent, by telephone Breaches if over 500 affected individuals report to media and DHHS Less than 500 affected submit log annually	HIPAA Covered Entities & Business Associates	DHHS to promulgate interim final regulations no later than 180 from enactment
383	13403	Education on Health Information Privacy	Creates Regional Office Privacy Advisors	Guidance and Education to covered entities, business associates and individuals on rights and responsibilities related to federal privacy and security requirements for protected health information	OCR establish national education initiative	DHHS OCR	DHHS to appoint Advisors no later than 6 months after enactment. 12 months/ enactment
384	13404	Privacy Provisions to Business Associates	Application of privacy provisions	Additional provisions of the Privacy subtitle are incorporated into the business associate agreements	Applies HIPAA civil and criminal penalties to business associates that violate privacy provisions	Business Associates of Covered Entities	Not specified - 12 months after enactment
385	13405	Restrictions of Disclosures Limited Data Sets Accounting of Disclosures Prohibition of Sale Access to Information	Individuals may request restrictions of disclosures of their information	Individual opportunity to restrict disclosures of their information	Covered entities must comply with individual requests for restrictions of disclosure of information when individual has paid out of pocket in full for services.	HIPAA Covered Entities	Not specified - 12 months after enactment
			Limiting disclosures of health information first to a limited data set then to the minimum necessary	Compliance with HIPAA minimum necessary provisions	Covered entities shall limit access, uses or disclosures to limited data sets to extent practicable	HIPAA Covered Entities	Not specified - 12 months after enactment
			Individuals have right to an accounting of disclosures	Extends accounting of disclosures to electronic health records	Limits period for accounting of disclosures to 3 years from EHRs	HIPAA Covered Entities	DHHS regulations no later than 6 months after DHHS adopts regulations based on HIT Policy Committee recommendations on accounting of disclosures for treatment, payment and health care operations OR For Covered Entities that acquire EHRs as of 1-1-2009, applies on or after 1-1-2014 For Covered Entities that acquire EHRs after 1-1-09, effective 1-1-2011 or date of EHR acquisition Or as specified by Secretary

Pg (pdf)	Sec	Title	Description	Purpose	What	Who	Timing
			Not receive remuneration in exchange for any protected health information without authorization from individual	Exceptions: <ul style="list-style-type: none"> Public Health Activities Research Treatment of Individual Health Care Operations Exchanges with Business Associate With Individual Otherwise Determined by Secretary 	N/A	HIPAA Covered Entity or Business Associate	No later than 18 months after enactment DHHS shall promulgate regulations on exchanges occurring 6 months after the date of promulgation of the regulations
			Access to Certain Information in Electronic Format	Provides individuals access to records	Directs entities to transmit copies directly to individual and to charge fees	HIPAA Covered Entities	Not specified - 12 months after enactment
396	13405	Conditions on Certain Contacts – Health Care Operations	Communications by HIPAA covered entities or business associates that encourage recipients to purchase or use a product or service	Cannot be considered a health care operation under the HIPAA Privacy Rule Exceptions to marketing under the HIPAA Privacy Rule cannot be considered health care operation, with exceptions.	Exceptions: <ul style="list-style-type: none"> Describes only drug or biologic currently being prescribed and the payment is reasonable Communication is made by the covered entity and has a valid authorization from individual, or Communication is made by a business associate consistent with the business associate agreement 		12 months after enactment
		Opt Out of Fundraising	Provide opportunity for individual to opt out of use of information for fundraising	If individual opts out, revokes authorizations for such purposes	N/A	Covered Entities	12 months after enactment
399	13407	Temporary Breach Notification	Requires breach notification for PHR entities	Notify individuals whose information has been breached	Notify Federal Trade Commission who shall notify DHHS	-Vendors of PHRs -Entities that offer PHR products through the web -Non-covered entities that offer products and services related to PHR -Entities that send information to PHRs -Third-party service providers -Third Party service providers to assist in PHRs	Interim Final Regulations by 180 days after enactment from FTC applying to breaches 30 days after that date.
403	13408	Business Associate Contracts for HIT	Requires Business Associate Agreements	Covered entities must have a business associate agreement with entities that provide transmission of protected information for the covered entity	N/A	Covered entities & Entities that provides data transmission for covered entities, such as RHIO, HIE Organization, e-prescribing gateway.	Unclear: Date of enactment or 12 months after enactment
404	13409	Criminal Penalties for Wrongful Disclosures	Clarifies existing law on wrongful disclosures of individually identifiable health information	Protect health information from improper disclosures	Clarifies that a person shall be considered to have obtained or disclosure information in violation of HIPAA if the information is	Covered Entity Individual with access to information	Not specified – 12 months after enactment

Pg (pdf)	Sec	Title	Description	Purpose	What	Who	Timing
					maintained by a covered entity and the individual obtains or discloses the information without authorization		
405	13410	Improved Enforcement	Adds to provision on willful neglect:	Requires DHHS to impose a penalty for willful neglect resulting in noncompliance	Penalties	Covered Entities	24 Months after enactment DHHS shall promulgate regulations no later than 18 months after enactment
		Distribution of Civil Penalties Collected	Penalties shall be transferred to the Office of Civil Rights for enforcing HIPAA	Requires GAO to provide report on how individuals harmed by the actions should receive portions of penalties (due 18 months after enactment)	Operationalize distribution of penalties	DHHS/OCR/GAO	3 years after enactment DHHS shall promulgate regulations
		Civil Penalties	Tiered increase in amount of civil monetary penalties	Provides different tiers for penalties for unintentional, reasonable causes and willful neglect	N/A	Covered entities and Individuals with access to information	Violations occurring after enactment
		Enforcement by State Attorneys General	State Attorneys General may bring civil action on behalf of state's residents	To enjoin further violation by the defendant or to obtain damages on behalf of such resident Limits state action while federal action is pending	Damages amounting equal to amount established in this section	State Attorneys General	Applies to violations occurring after enactment
417	13421	Relationship to Other Laws	Carries over HIPAA State Preemption to new provisions HIPAA remains in effect to the extent consistent with new Privacy rules	N/A	N/A	N/A	N/A
418	13424	Studies, Reports, Guidance	Requires DHHS Secretary to report on Privacy and Security Requirements to Non-HIPAA covered entities.	N/A	N/A	Vendors of PHRs -Entities that offer PHR products through the web -Non-covered entities that offer products and services related to PHR -Entities that send information to PHRs -Third-party service providers -Third Party service providers to assist in PHRs	1 year after enactment
		De-Identified PHI	Guidance on De-Identified Protected Health Information	Requires DHHS to issue guidance on how best to implement requirements for de-identification of PHI	N/A	DHHS	12 months after enactment
		Treatment	GAO report best practices related to use of protected health information by providers for treatment	N/A	N/A	N/A	1 year after enactment
		Impact of Provisions	GAO report on impact of provisions	Impact of provisions on health insurance premiums, overall health care costs, adoption of HIE, reduction of medical errors, and quality improvements.	N/A	GAO	5 years after enactment
		Psychotherapy Notes	Study impact of psychotherapy notes and HIE	Relation of test data related to direct responses, scores, items, forms, protocols,	N/A	DHHS	Not specified.

Pg (pdf)	Sec	Title	Description	Purpose	What	Who	Timing
				manuals and other materials of mental health evaluations to definition of psychotherapy notes			

MEDICAID INCENTIVES FOR HEALTH INFORMATION TECHNOLOGY

Pg (pdf)	Sec	Title	Description	Funds	What	Who	Timing
	4101	Incentives for Eligible Professionals	<p>Provides incentive payments to eligible professionals. Encourage the adoption and use of certified EHR technology</p> <p>Not in excess of 85 percent of net average allowable costs for eligible professionals for certified EHR technology</p> <p>In no case shall the payments described in paragraph with respect to a Medicaid provider described in paragraph exceed</p> <ul style="list-style-type: none"> in the aggregate the product of: <ul style="list-style-type: none"> -the overall hospital EHR amount for the provider and -the Medicaid share for such provider; in any year 50 percent of the product described in clause (i); and in any 2-year period 90 percent of such product. 	<p>\$40,000,000 for each fiscal years 2009-2015</p> <p>\$20,000,000 for fiscal year 2016</p> <p>Funds are available until expended</p>	<p>The net average allowable costs for the first year of payment (which may not be later than 2016), cannot exceed \$25,000 (or such lesser amount as the Secretary determines based on studies conducted;</p> <p>The net average allowable costs under this subsection for a subsequent year of payment, which is intended to cover costs, cannot exceed \$10,000;</p> <p>No payments can be made for costs after 2021 or over a period of longer than 5 years.</p> <p>Funding available for implementation in first year, subsequent years for meaningful use of EHR</p>	<p>Payments made by the State to eligible Medicaid providers:</p> <ul style="list-style-type: none"> Not hospital based & 30% patients receive MediCal Pediatricians, not hospital based & 20 % patients receive MediCal Health centers or rural clinics & 30% patients receive MediCal A children's hospital An acute-care hospital & 10% of patients receive MediCal <p>Entities promoting adoption of certified EHR technology if voluntary and no more than 5% of payments are retained by entity.</p> <p>Providers responsible for remaining 15% of costs</p>	.Not specified.

BROADBAND

Pg (pdf)	Sec	Title	Description	Funds	What	Who	Timing
		Broadband Technology Opportunities Program	Establish a national broadband service program	<p>\$4,700,000,000</p> <p>\$4,350,000,000 for national broadband service program</p> <p>\$200,000,000 for competitive grants expand public computer center capacity</p> <p>\$250,000,000 for grants sustainable adoption of broadband services</p> <p>\$10,000,000 for audit and oversight</p> <p>\$350,000,000 develop and maintain broadband inventory map</p> <p>No greater than 80% federal share</p>	Not less than 1 grant in each state	<p>Asst. Secretary of Commerce for Communications and Information</p> <p>Grantee –</p> <ul style="list-style-type: none"> state or political subdivision A nonprofit foundation, corporation, institution or association, or Any other entity approved by Asst. Secretary 	<p>Grants before end of 2010</p> <p>Expected Outlays;</p> <p>2010 - \$780,000,000</p> <p>2011 - \$860,000,000</p> <p>2012 - \$1,250,000,000</p> <p>2013 - \$1,210,000,000</p> <p>2014 - \$390,000,000</p> <p>2015 - \$150,000,000</p> <p>Total: \$4,700,000,000²</p>

² (Congressional Budget Office Conference Committee Estimates)
Revised 02-25-2009