

Minnesota e-Health Initiative Public Meeting on the HITECH Act

Wednesday, May 20, 4:00 p.m. to 6:00 p.m.

Mississippi Room, MDH Snelling Office Park Building

1645 Energy Park Drive at Snelling, St. Paul, Minnesota

Directions: <http://www.health.state.mn.us/about/sop.html>

Focus Today:

Overview of Recent National and State Activity Toward Implementation of HITECH

Overview of Recovery Act Opportunities for e-Health Beyond HITECH

Recommendations, Resources & Learning Opportunities for Minnesota Providers

Agenda

I. Welcome, Purpose & Introduction

Martin LaVenture, Director, MDH Center for Health Informatics

II. Overview of Recent National and State Activity Toward Implementation of HITECH

- **National Activity: ONC Operations Plan, New Appointments, Proposed Rules & Guidance, Timeline**
Liz Carpenter – Minnesota Department of Health
- **State Activity:**
 - **Legislative Update, State Budget Status & Expectations for Section 3013 Grants**
James Golden - Minnesota Department of Health
 - **Administration of Medicaid Incentives**
Larry Woods – Minnesota Department of Human Services
 - **Beyond HITECH: Other Recovery Act Opportunities for Providers**
Karen Welle – Minnesota Department of Health

III. Recommendations, Resources, and Learning Opportunities for Minnesota Providers

Walt Cooney - Minnesota e-Health Advisory Committee Co-chair

IV. Questions from the Audience & Panel Discussion

Moderated by: Martin LaVenture, Director, MDH Center for Health Informatics

VI. Closing Comments

Note: To submit questions, in-person meeting participants are requested to submit questions on 3x5 index cards; webinar participants are requested to submit questions via online chat

To receive notice of future updates on HITECH:

Please subscribe to the Minnesota e-Health gov delivery e-mail list:

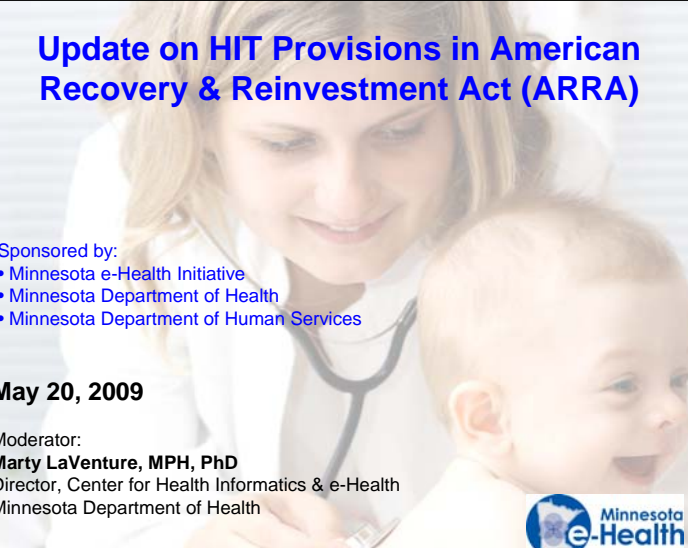
<http://www.health.state.mn.us/ehealth/>



Minnesota
e-Health

www.health.state.mn.us/e-health or by e-mail: MN.eHealth@state.mn.us

Update on HIT Provisions in American Recovery & Reinvestment Act (ARRA)




Sponsored by:

- Minnesota e-Health Initiative
- Minnesota Department of Health
- Minnesota Department of Human Services

May 20, 2009


Moderator:
Marty LaVenture, MPH, PhD
 Director, Center for Health Informatics & e-Health
 Minnesota Department of Health




The Minnesota e-Health Initiative

A public-private collaboration established in 2004


- Legislatively chartered
- Coordinates and recommends statewide policy on e-Health
- Develops and acts on statewide e-health priorities
- Reflects the health community's strong commitment to act in a coordinated, systematic and focused way



“Vision: ... accelerate the adoption and effective use of **Health Information Technology** to improve healthcare quality, increase patient safety, reduce healthcare costs, and enable individuals and communities to make the best possible health decisions.”



Source: e-Health Initiative Report to the MN Legislature, January 2004




Minnesota's Statewide Implementation Plan

Components of the Plan

Part 1: Background
 Part 2: Minnesota Model for EHR Adoption
 Part 3: Emerging Issues
 Part 4: Recommendations

Appendices

Guide 1: Addressing Common Barriers
 Guide 2: Minnesota e-Health Standards

Special Interest Area:

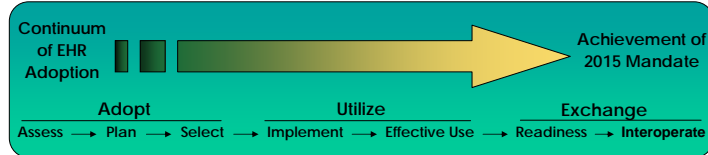
1 Long Term Care
 # 2 Public Health



Available at: <http://www.health.state.mn.us/ehealth/ehrplan.html>


Minnesota Model for Adopting Interoperable Electronic Health Records

- Breaks achieving the 2015 Mandate into manageable steps
- Applies across organizational settings



Continuum of EHR Adoption → Achievement of 2015 Mandate

Assess → Plan → Select → Implement → Effective Use → Readiness → Interoperate



Our Speakers & Panel Members

- *Liz Carpenter, Minnesota Department of Health*
- *Dr. James Golden, Minnesota Department of Health*
- *Larry Woods, Minnesota Department of Human Services*
- *Karen Welle, Minnesota Department of Health*
- *Walter Cooney, Co-Chair
Minnesota e-Health Advisory Committee*



Meeting Agenda

- Update on National Implementation Activities
- Update on Minnesota Implementation Activities
 - Legislative Update, Expectations for 3013 Grants
 - Administration of Medicaid Incentives
 - Opportunities for Providers in Addition to HITECH
- Minnesota e-Health Initiative Recommendations
 - Actions for Minnesota Providers
 - Resources & Learning Opportunities
- Questions from the Audience and Panel Discussion



Plan for Panel Discussion & Submitting Questions

- **Webinar Participants:**

Please submit questions via online chat

- **Live Audience:**

Please use 3x5 cards to submit questions

Pass to center aisle

Questions will be reviewed and staff will identify future resource materials to be posted.



Update on National HITECH Implementation Activity

Presented at the Public Meeting

Wednesday, May 20, 2009

Liz Carpenter
Deputy Director, Center for Health Informatics
Minnesota Department of Health



Review of Recovery Act HIT Provisions

“HITECH Act”

*Health Information Technology for Economic and
Clinical Health Act*

Invests \$31 billion in health information technology infrastructure and Medicare and Medicaid incentives to encourage doctors and hospitals to use HIT to electronically exchange patients' health information.



Review of Recovery Act HIT Provisions

- \$2 billion in direct funding for health IT efforts through the Office of the National Coordinator (ONC)
 - \$300 million reserved for supporting regional exchange efforts
 - \$20 million reserved for National Institute on Standards and Technology (NIST)
 - \$24 million for privacy and security – **Estimated in ONC Plan**
- \$29 billion in Medicare and Medicaid incentives to providers and hospitals that adopt and use health IT systems
 - Starting in 2011 and increases the deficit by \$29 billion through 2019.
 - Includes Medicare penalties that kick in 2015
 - Health IT expected to reduce federal spending by approximately \$12 billion



ONC Operations Plan Released Monday May 18th

- Privacy & Security
 - Spend Plan: \$24 Million
 - Includes \$9.5 Million to Office of Civil Rights for Audits
 - Key Dates:
 - August 18, 2009 – Interim Final Rule on Breach Notification
 - February 18, 2010 – Proposed Guidance, Rules, Reports
 - June 28, 2010 – Proposed Rules
 - August 18, 2010 – Proposed Guidance & Rules
 - Q3-09 – Training for State AG's
 - Q2-10 – Audit Task Orders



ONC Operations Plan Released Monday May 18th

Selected Key Milestones (continued)

- HHS & NIST Agreement Final
 - July 15, 2009
- Standards – Rulemaking
 - August 26, 2009 – Complete Draft Rule/Regulatory Impact Analysis
- Strategic Plan Update
 - August 30, 2009 – Receive input from stakeholders
 - December 31, 2009 – Revised plan published
- Define “Meaningful Use”
 - No Dates Given
- Public Communications
 - Contract for Communications
 - Working on Plan Delivery Dates for Public Communications



ONC Operations Plan Released Monday May 18th

- **December 1, 2009 – Initial Outcome Measures**
 - Developed Based on Existing Measures
 - New Measures Expected to be Reported Quarterly
- **Existing Measures to Increase Adoption:**
 - Physician adoption
 - Small practice with EHR
 - Percent with certified EHRs
- **Existing Measures for Privacy:**
 - % Cases resolved per received
 - % Complaints resolved in one year
 - % Complaints resolved in 180 days – no formal investigation



National HIT Policy Committee Recent Activity & Appointments

- First Meeting – May 11, 2009
 - Workgroups established to set criteria for:
 - Meaningful Use
 - Requirements for System Certification
 - Workforce Development Needs
 - Opportunities for Participation:
 - <http://healthit.hhs.gov/portal/server.pt>
- Minnesotan Appointed
 - **Connie Delaney, RN, PhD, Dean, University of Minnesota School of Nursing**



National HIT Standards Committee Recent Activity & Appointments

- First Meeting – May 15, 2009
 - Early Deliverables Anticipated
 - “Meaningful use” recommendations – One month
 - Initial set of standards by end of 2009
 - Opportunities for Participation
 - <http://healthit.hhs.gov/portal/server.pt>
- Minnesotan Appointed
 - Christopher Chute MD, DPH, Mayo Clinic College of Medicine



Overview of Official Notices on Proposed Rules & Guidance

- **Federal Trade Commission:**
 - Proposed rule breach notification for personal health records
 - Deadline for comments: **June 1, 2009**
- **U.S. Department of Health and Human Services:**
 - Proposed guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals.
 - Deadline for Comments: May 21, 2009
- **Factsheets and Links on Official Notices**
 - Posted at <http://www.health.state.mn.us/e-health/hitech.html>.



Summary of Minnesota Input on Proposed National Standards & Policy

- Communication to ONC on Top Minnesota Priorities
 - Importance of 3014 Loan Program
 - Input on 3012 Regional Extension Centers
- Testimony at NCVHS Hearing on “Meaningful Use”
 - Population & Public Health Panel – 4/29/09
- Minnesota Privacy & Security Program
 - FTC – Proposed Rule on Breach Notification
 - DHHS – Proposed Security Guidance
- National HIT Standards Committee
 - Dr. Chute, Mayo Clinic College of Medicine
- National HIT Policy Committee
 - Dr. Delaney, Dean, University of Minnesota School of Nursing
 - Workgroup on HIT exchange – Dr. Delaney, Dr. LaVenture



Update on Minnesota HITECH Implementation Activity: Legislation, Budget & Expectations for 3013 Grants

Presented at the Public Meeting

Wednesday, May 20, 2009

James I. Golden, Ph.D.
Director, Division of Health Policy
Minnesota Department of Health



Minnesota Priorities for HITECH Funding

- Position providers to earn maximum incentive payments under Medicare and/or Medicaid
- Address two largest barriers to Minnesota providers implementing electronic health records:
 - Access to capital to purchase and adopt EHRs
 - Technical assistance in using EHRs effectively



Primary HITECH Mechanisms to Address Minnesota Priorities

- **Section 3014 Competitive Grants to States & Tribes for Loan Programs**
- **To Assist Providers with:**
 - Purchase of EHR technology
 - Enhance use of EHR
 - Train personnel
 - Improve secure health information exchange
- **Match: \$1 to \$5**



Primary HITECH Mechanisms to Address Minnesota Priorities

- **Section 3013 Grants to States to:**
 - Enhance HIT adoption and effective use
 - Identify state and local resources
 - Provide technical assistance
 - Promote HIT for underserved areas
 - Assist patients in use of HIT
 - Support use of regional extension centers
 - Support public health HIT
 - Promote quality measurement
- **Match: \$1 to \$10 (2011), \$1 to \$7 (2012), \$1 to \$3 (2013)**



Aligning Minnesota Policy in Preparation for HITECH Opportunities

Minnesota e-Health Policy Legislation

- Updates the MN e-Health Advisory Committee
- Requires coordination with national activities
- Allows data collection for assessment & incentive eligibility
- Designates the Commissioner of Health as the lead applicant for 3013 grants
- Aligns the Minnesota EHR loan program with HITECH 3014 requirements
- Updates requirements for electronic prescribing



Accessing HITECH 3013 Grant to Meet Minnesota Priorities

- *“(d) To the extent that the state is either required or allowed to apply, or designate an entity to apply for or carry out activities and programs under section 3013 of the HITECH Act, [the commissioner of health, in consultation with the e-Health Advisory Committee and the commissioner of human services, shall be the lead applicant or sole designating authority.](#)

 [The commissioner shall make such designations consistent with the goals and objectives of sections 62J.495 through 62J.497, and sections 62J.50 through 62J.61.”](#)*




Minnesota Application for HITECH 3013 Implementation Grant

- Expansion in Minnesota e-Health Activities Including:
 - Assist in the development and support of regional extension centers
 - Provide supplemental information to ensure resources are meaningful to Minnesota providers
 - Convene industry experts for coordinated response to proposed national rules/guidance on:
 - Policy, standards, and quality measures
 - Collect data on the adoption, implementation and effective use
 - Demonstrate MN progress toward meeting statewide e-health goals
 - Assist DHS with determining provider eligibility for HITECH incentives




Securing Matching Funds to Seize HITECH Opportunities

- HHS Omnibus Bill Signed by Governor
 - \$350,000 for FY 2010
(Match for 3013 Grant)
 - \$175,000/year Base Funding for FY 2011-2013
 - \$4 Million Funds for EHR Loans
(Match for 3014 Grant)



Summary of MDH Activities to Prepare for HITECH Implementation

- Secure matching funds and make policy changes to position MN for HITECH funding
- Apply for state grant to continue promoting HIT
- Apply for competitive grants for HIT loan programs
- Inform Minnesota providers and stakeholders
- Collaborate with DHS on Medicaid HIT incentives
- Work closely with the AC and stakeholders on collaborative ARRA efforts
- Support statewide partner applications for exchange, education and technical assistance, telehealth, and broadband funding





Update on Minnesota HITECH Implementation Activity: Administration of Medicaid Incentives

Presented at the Public Meeting


Wednesday, May 20, 2009

Larry Woods
Director, Health Care Operations
Minnesota Department of Human Services

Administration of HITECH Incentives

- Finalizing State Definition of “Meaningful Use”
- Waiting for Key Information from CMS:
 - Medicaid Director letter on administration of Medicaid incentives (Due March 31)
 - Definition of:
 - “Certified” Technology
 - Average Allowable Cost
 - Medicaid Patient Volume
- Gathering Information for Environmental Scan
 - MN Assessment Data on EHR adoption



Beyond HITECH: Other Recovery Act Opportunities for Minnesota Providers

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Wednesday, May 20, 2009

**Karen Welle, Assistant Director
Office of Rural Health and Primary Care
Minnesota Department of Health**



Other ARRA Opportunities for Providers

- **Indian Health Services**
 - \$85M for HIT, including telehealth services and infrastructure
- **Community Health Center Grants (\$2.5 B)**
 - \$500M for operations and \$1.5B for capital projects, including HIT
- **Health Workforce Shortages**
 - scholarships, loan repayment, grants to training programs, and NHSC (\$500 M)
- **Broadband**
 - USDA: Distance Learning, Telemedicine and Broadband Program (\$2.5 B)
 - NTIA: Broadband Technology Opportunities Program (\$4.7 B)
- **USDA Rural Community Facilities Program**
 - grants and loans (additional \$130M)



Minnesota e-Health Initiative Recommendations for Providers

Presented at the Public Meeting

Wednesday, May 20, 2009

**Walter Cooney,
Co-chair, Minnesota e-Health Advisory Committee
Executive Director, Neighborhood Health Care Network**



Minnesota e-Health Advisory Committee Charge

A public-private collaboration established in 2004

- Advisory to the Commissioner of Health – 25 appointed members
- Recommends statewide policy on e-Health
- Develops and acts on statewide e-health priorities - e.g. Standards
- Focuses on issues of common interest and statewide
- Current Activities Include:
 - Finalizing 2009 Guides on Standards, e-Prescribing & Effective Use
 - Updating plans for ad hoc and on-going workgroups to meet the needs for ARRA in a timely manner.



Key Actions & Considerations for Minnesota Stakeholders in 2009

- “Meaningful Use” is not yet fully defined.
- Despite this, you can begin preparation.
- The law says “meaningful use” will include:
 - Having a qualified / certified EHR
 - Demonstrating information exchange.
 - *Examples may include:* Medications history, lab results, immunizations histories, and care summaries and disease reporting.
 - Reporting of quality measures, that are yet to be named.



Key Actions & Considerations for Minnesota Stakeholders in 2009

- If you are looking at buying an EHR be sure to plan thoroughly before you buy
- If you have an EHR, implement techniques that support effective use
- Make sure you are adopting and using e-prescribing
- Reach out to community partners and HIE's to begin exchange of information
- Keep current by checking the e-Health website frequently



Key Actions & Considerations for Minnesota Stakeholders in 2009

- Learn about incentives & understand requirements to receive the maximum amount
- Create/update your EHR requirements including your clinical, business and technical needs
- Complete / update your EHR plan for adoption, effective use of the EHR's
- Ensure your plan meets criteria for “meaningful use” as it evolves
- Talk with your vendor to understand their plans for getting & staying certified/qualified



State Mandates that Advance e-Health

2011 e-Prescribing Mandate

All providers, group purchasers, prescribers, and dispensers establish and maintain an **electronic prescription drug program** that complies with applicable standards by January 2011

2015 Interoperable EHR Mandate:

All healthcare providers and hospitals have **interoperable EHRs by 2015**


- MDH to develop a **statewide plan** to meet the mandate
- Establish **uniform health data standards** by January 2009
- All EHRs must be **certified** by CCHIT or its successor assuming a certified EHR product for the provider's particular setting is available



Resources for Adoption & Effective Use: Companion Guides to Minnesota Statewide Implementation Plan

Companion Guides to the MN Statewide Implementation Plan

- **Guide 1: Addressing Common Barriers to the Adoption of EHRs**
Released 2008
- **Guide 2: Standards Recommended to Achieve Interoperability in MN**
Released 2008, Updated June 2009
- **Guide 3: A Practical Guide to e-Prescribing**
Released June 2009
- **Guide 4: A Practical Guide to Effective Use of EHR Systems**
Released June 2009



Minnesota e-Health Initiative Resources & Learning Opportunities

- Minnesota e-Health “Gov Delivery” List – Weekly Updates
- Monthly Conference Call Updates
- HITECH Web Page: www.health.state.mn.us/e-health
- Minnesota e-Health Summit
 - “Strategies for Success in Challenging Economic Times”
 - June 25, 2009 – Northland Inn
- Minnesota e-Health Pre-Summit
 - June 24, 2009 – Northland Inn
 - Effective Use
- Minnesota Rural Health Summit
 - June 15-16, 2009 – Duluth, MN



Minnesota e-Health Initiative HITECH Resources Web Page

www.health.state.mn.us/e-health/hitech.html

Handouts / Resources

- Factsheets
 - Medicare – Hospital
 - Medicare – Professionals
 - Medicaid Incentives
 - Proposed Rules & Guidance on Privacy
- Resource list
- Timeline
- Figure 1: Key Program, Distribution, Use and Recipients for the HITECH Act
- Slides from Public Meetings
- Minnesota Statewide Plan - 2008




Panel Discussion

- *Liz Carpenter, Minnesota Department of Health*
- *James Golden, Minnesota Department of Health*
- *Karen Welle, Minnesota Department of Health*
- *Larry Woods, Minnesota Department of Human Services*
- *Walter Cooney, Co-Chair
Minnesota e-Health Advisory Committee*



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For More Information

www.health.state.mn.us/e-health/hitech.html

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**Health Information Technology
American Recovery and Reinvestment Act (Recovery Act) Implementation Plan
Office of the National Coordinator for Health Information Technology**

A. Funding Table

	Total Appropriated <i>(Dollars in Millions)</i>
Privacy and Security*	\$ 24.285
National Institute of Standards and Technology (NIST)	20.000
Regional HIT Exchange	300.000
Unspecified	<u>1,655.715</u>
Total, Health Information Technology	\$ 2,000.000

*Note: This dollar figure, \$24,285,000, includes an estimated \$9.5 million for audits by the Office for Civil Rights and the Centers for Medicare & Medicaid Services. This estimate is subject to change. Updated Figures will be reported to Recovery.gov.

B. Objectives:

The Health Information Technology for Economic and Clinical Health (HITECH) Act provisions of the Recovery Act of 2009 create a historic opportunity to improve the health of Americans and the performance of the nation's health system through an unprecedented investment in health information technology (HIT). This initiative will be an important part of health reform as health professionals and health care institutions, both public and private, will be enabled to harness the full potential of digital technology to prevent and treat illnesses and to improve health. This is a remarkable and far-sighted commitment that the Office of the National Coordinator for Health Information Technology (ONC) is honored to lead and support.

The ONC is acutely aware that to fulfill its obligations under the Recovery Act it must act swiftly but thoughtfully. It must meet tight deadlines created by statutory requirements of the law while assuring that ONC's decisions and actions support the law's fundamental, long-term purposes: improving health and health care through the best possible applications of HIT. Meeting the long-term goals of the Recovery Act will require careful thought and planning while delivering to the American people quick action and effective investment of committed funds.

This operating plan outlines immediate actions to meet statutory requirements and to begin the huge task ahead. Over the next several weeks, ONC will hold hearings and meetings to develop and vet plans and procedures.

C - E. Activities, Characteristics and Delivery Schedules:

American patients and their caretakers will be the ultimate beneficiaries of the following activities aimed at achieving the President's health IT initiative to accelerate the adoption of health IT and utilization of electronic health records. All of the activities discussed in this section support the current two Federal Health IT Strategic Plan goals:

1. Inform Health Care Professionals: Provide critical information to health care professionals to improve the quality of care delivery, reduce errors, and decrease costs.
2. Improve Population Health: Simplify collection, aggregation, and analysis of anonymized health information for use to improve public health and safety.

- Privacy and Security Spend Plan*: Recovery Act Subtitle D - Utilizing fully competitive contract awards, HHS will implement time-sensitive, mandatory regulatory and enforcement requirements in Subtitle D, providing contract assistance to meet statutory deadlines requiring promulgation of a variety of regulations and guidance, conduct multiple studies, and submit a number of Congressional reports; enhance enforcement of the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules by carrying out the extensive changes that Subtitle D makes to the existing HIPAA complaint investigation and enforcement scheme. This funding will enable the Centers for Medicare and Medicaid Services (CMS) and the Office for Civil Rights (OCR) to carry out mandated audits, make modifications in their case and document management systems, and train State Attorneys General in their new enforcement role. The Recovery Act also required that, no later than April 17, 2009, ONC was to issue guidance on technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals. This guidance was published in the Federal Register. A fully competitive contract award will be utilized to support the review and disposition of public comments. Final guidance will be published after a public comment period

Milestones:

Regulations, Guidance, Reports and Studies

DESCRIPTION	DATES(S)	PURPOSE	RESPONSIBLE AGENCY
For breach notification purposes, issue guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals	April 18, 2009; annual updates	Required guidance under Section 13402	ONC in collaboration with OCR and CMS
Issue interim final regulations to implement breach notification for HIPAA covered entities and business associates	August 18, 2009	Issue regulation under Section 13402	OCR and FTC
Issue regulations to modify the HIPAA Enforcement Rule to implement revised penalty structure	February 18, 2010	Issue regulation under Section 13410	OCR in collaboration with CMS
Issue regulations to extend certain HIPAA Security Rule provisions to business associates	February 18, 2010	Issue regulation under Section 13401	CMS
Issue guidance on technical safeguards to carry out security	February 18, 2010; annual updates	Required guidance under Section 13401	CMS in collaboration with ONC
Report to Congress on breaches for which notice was provided to the Secretary	February 18, 2010 and annually thereafter	Issue report to Congress under Section 13402	OCR
Issue regulations to extend certain HIPAA Privacy Rule provisions to business associates	February 18, 2010	Issue regulation under Section 13404	OCR
Issue regulations to modify the HIPAA Privacy Rule's provisions regarding right to request restrictions, minimum necessary, access	February 18, 2010	Issue regulation under Section 13405	OCR
Issue regulations to modify the HIPAA Privacy Rule's provisions regarding marketing and fundraising	February 18, 2010	Issue regulation under Section 13406	OCR

Issue regulations to clarify that certain entities are HIPAA business associates	February 18, 2010	Issue regulation under Section 13408	OCR
Report to Congress on HIPAA Privacy and Security Compliance	February 18, 2010 and annually thereafter	Issue report to Congress under Section 13424	OCR and CMS
Study and report to Congress on privacy and security requirements for entities that are not HIPAA covered entities or business associates	February 18, 2010	Issue report to Congress under Section 13424	ONC in collaboration with OCR, CMS and FTC
Issue guidance on the HIPAA Privacy Rule's requirements for de-identification	February 18, 2010	Issue guidance as required under Section 13424	OCR in collaboration with ONC
Study the HIPAA Privacy Rule's definition of "psychotherapy notes" with regard to including certain test data and mental health evaluations	February 18, 2010	Conduct study as required under Section 13424	OCR in collaboration with SAMHSA
Issue regulations to modify the HIPAA Privacy Rule's accounting of disclosures provisions	June 18, 2010	Issue regulation under Section 13405	OCR
Issue guidance on what constitutes "minimum necessary" for purposes of the HIPAA Privacy Rule	August 18, 2010	Issue guidance as required under Section 13405	OCR
Issue regulations to modify the HIPAA Enforcement Rule to implement willful neglect provisions	August 18, 2010	Issue regulation under Section 13410	OCR in collaboration with CMS
Issue regulations to modify the HIPAA Privacy Rule to generally prohibit exchanging health information for remuneration without individual authorization	August 18, 2010	Issue regulation under Section 13405	OCR
Issue regulations to modify the HIPAA Enforcement Rule to implement provisions for sharing civil money penalties or settlements with harmed individuals	February 18, 2012	Issue regulation under Section 13410	OCR in collaboration with CMS

Enforcement

DESCRIPTION	DATES(S)	PURPOSE
OCR Case Management Upgrade – Issue Task Order	Third Quarter 2009	Upgrade Case Management System to incorporate HITECH changes.
CMS Case Management Upgrade – Issue Task Order	Third Quarter 2009	Upgrade Case Management System to incorporate HITECH changes.
Training for State Attorneys General	Third Quarter 2009	Training on Section 13410(e) of the Act.
Issue Audit Task Order – OCR	Second Quarter 2010	Compliance with Section 13411 of the Act.
Issue Audit Task Order – CMS	Second Quarter 2010	Compliance with Section 13411 of the Act.
Completion of Projects	1 October 2011	

- National Institute of Standards and Technology (NIST): Recovery Act Authorizing Language
- HHS will transfer \$20 million to NIST for continued work on advancing health care information integration through activities such as technical standards analysis and establishment of conformance testing infrastructure.

Milestones:

	<u>Start</u>	<u>End</u>
Discussions between HHS and NIST to outline work requirements	03/31/2009	05/15/2009

Draft agreement to codify outcomes, deliverables, schedule and reporting requirements	05/16/2009	06/30/2009
Fully execute agreement	07/01/2009	07/15/2009

- Standards Rulemaking: Recovery Act §3004 (B) (1) - No later than December 31, 2009, HHS shall adopt and publish an initial set of standards, implementation specifications, and certification criteria. The rulemaking for this initial set of standards, implementation specifications, and certification criteria may be issued on an interim, final basis. Fully competitive contract awards will be utilized to support the impact analysis.

Milestones:

	<u>Start</u>	<u>End</u>
Complete Draft Rule/ Regulatory Impact Analysis	05/01/2009	08/26/2009
Submit for HHS Clearance	08/26/2009	09/25/2009
Clear OMB (up to 90 day process)	09/25/2009	12/24/2009
Publish in Federal Register	12/24/2009	12/31/2009

- Update Federal Health IT Strategic Plan: Recovery Act §3001 (c) 3, (A), (B), (D) - ONC will develop a draft update, receive input from stakeholders, review the impact on other projects, adjust the operating plan as needed, and publish the strategic plan on the HHS website. Strategic planning expertise will be engaged utilizing fully competitive contract awards.

Milestones:

	<u>Start</u>	<u>End</u>
Receive input from Federal and private-sector stakeholders to inform path forward	05/18/2009	08/30/2009
Review impact on other projects	09/01/2009	09/30/2009
Adjust operating plan, as needed	10/01/2009	10/15/2009
Submit for clearance	10/15/2009	12/15/2009
Publish revised plan on HHS Website	12/15/2009	12/31/2009

- Define “Meaningful Use of an EHR”: Recovery Act §4101- The Recovery Act authorizes that incentive payments may be made to eligible professionals and hospitals that are using EHRs in a meaningful way. Specific understanding of what constitutes meaningful use will be determined through a process that will include broad stakeholder input and discussion. HHS is developing milestones for major phases of the program’s activities with planned delivery dates.

- Recovery Act Public Communications: Recovery Act §3001 (c) (3) (A) (B) (D) - ONC will establish mechanisms for communications with the public, which would include creating a website like healthreform.gov. Through a fully competitive process, ONC will award a contract(s) to provide support in determining the best methods of broad communication and establish the resulting infrastructure. HHS is developing additional milestones for major phases of the program’s activities with planned delivery dates.

Considerations to Address Moving Forward - There are a number of complex issues that must be considered to fully implement the requirements of the HITECH Act and the intent of the Recovery Act. There is foundational work required to support the large investment that will be made through the Medicare and Medicaid Incentives programs at the Centers for Medicare & Medicaid Services (CMS). With the arrival of the new National Coordinator, decisions about how to best address standards development and harmonization, the certification and testing processes, privacy and security policy development, issues around governance, workforce training, and education for health care providers and consumers will be made.

Additionally, a notification for funding availability for the regional extension center grants will be published by the end of FY 2009. Awards are anticipated to be made in early FY 2010.

F. Environmental Review Compliance:

The activities described in this Implementation Plan do not trigger the requirements of the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA) or related statutes.

G. Measures:

ONC has performance measures in place that relate to overall Recovery Act activities. These outcome, output, and efficiency measures support the President’s health IT initiative to accelerate the adoption of health IT and utilization of electronic health records.

Through the revision of the Strategic Plan, ONC will revise existing and develop additional performance measures that will more specifically support the individual programs funded with Recovery Act dollars. These measures will be tied to the goals and objectives of the revised Federal Health IT Strategic Plan and will, on a more granular level, gauge progress toward the intended outcomes of each program. Although current measures are reported annually, Recovery Act-specific measures are under development and will be reported quarterly.

HHS is working to develop cross-cutting outcome measures for health information technology activities across the Department. Initial outcome measures will be developed by December 1, 2009. Some of these new measures will be reported quarterly to help HHS track progress toward the program’s goals and objectives.

Current performance measures include the following:

Office of the National Coordinator for Health Information Technology

#	Measure	FY	Target	Result
1.3.2	Increase physician adoption of EHRs (<i>Outcome</i>)	2010	TBD	Feb 2011
		2009	25%	Feb 2010
		2008	24%	21% Target improved but not met

#	Measure	FY	Target	Result
		2007	18%	14% Target improved but not met
		2006	N/A	No survey conducted
		2005	Baseline	10%
1.3.3	Increase the percentage of small practices with EHRs (<i>Outcome</i>)	2010	TBD	Feb 2011
		2009	12%	Feb 2010
		2008	8%	13% Target met
		2007	5%	9%
		2006	Baseline	4%
1.3.4	Percent of physician offices adopting ambulatory EHRs in the past 12 months that meet certification criteria (<i>Outcome</i>)	2010	TBD	Feb 2011
		2009	35%	Feb 2010
		2008	25%	No survey conducted
		2007	Baseline	27%

Office for Civil Rights Privacy Measures

#	Measure	FY	Target	Result
1.1.5	Percentage of privacy cases resolved per privacy cases received (<i>Output</i>)	2010	103%	Nov 2010
		2009	100%	Nov 2009
		2008	93%	99.7% (Target Exceeded)
		2007	88%	87.4% (Target Not Met)
		2006	81.20%	91.8% (Target Exceeded)
		2005	74.20%	79.7% (Target Exceeded)
1.1.9:	Percentage of privacy complaints that require formal investigation, resolved within 365 days (<i>Output</i>)	2010	40%	Nov 2010
		2009	45%	Nov 2009
		2008	Set Baseline	42.3% (Baseline)
1.1.10	Percentage of privacy complaints that do not require formal investigation, resolved within 180 days (<i>Output</i>)	2010	63%	Nov 2010
		2009	66%	Nov 2009
		2008	Set Baseline	67% (Baseline)

H. Monitoring/Evaluation:

All Recovery Act programs will be assessed for risk and to ensure that appropriate internal controls are in place throughout the entire funding cycle. These assessments will be done consistent with the statutory requirements of the Federal Manager's Financial Integrity Act and the Improper Payments Information Act, as well as OMB's circular A-123, "Management's Responsibility for Internal Control."

As programs are developed, ONC will also develop performance metrics and reporting requirements within the contract or grant language to ensure that adequate progress is being made toward the defined goals of the program.

Spending of Recovery Act dollars requires coordination with the Office of the Inspector General (OIG), which has been tasked with analyzing the spending plans to assess the risk potentials associated with the proposed contract and grant expenditures. The risk assessments are both internal and external. Internally, the OIG will assess and, when appropriate, test the necessary management controls that need to be in place to adequately manage the proposed contracts and grants inclusive of the program development and execution stages and the administration of the programs. Externally, the OIG will perform any audits necessary to insure that intended grant recipients are financially stable and have auditable financial systems; they will also ensure that contractors' financial systems are auditable.

I. Transparency:

ONC and other agencies administering HITECH funded activities will be open and transparent in all of its contracting and grant competitions and regulations that involve spending of Recovery Act funding, consistent with statutory and OMB guidance.

ONC and other agencies administering HITECH funded activities will work closely with Federal partners to codify agreements that will support the reporting of all Recovery Act activities in compliance with Section 2.9 of the OMB February 18, 2009 Guidance. MOU language will be developed with the relevant agency outlining the expectations for information to be gathered, frequency of reporting, ability to assure that the data are reliable, timely and complete. ONC will post this information in the required Websites beginning July 10, 2009. For projects that are directly funded by ONC, language will be incorporated into contracts and other awards specifically spelling out the requirement for reporting data, as described above.

ONC and other agencies administering HITECH funded activities will ensure that recipient reporting required by Section 1512 of the Recovery Act and OMB guidance is made available to the public on Recovery.gov by October 10, 2009. ONC and other agencies administering HITECH funded activities will inform recipients of their reporting obligation through standard terms and conditions, grant announcements, contract solicitations, and other program guidance. ONC and other agencies administering HITECH funded activities will provide technical assistance to grantees and contractors and fully utilize Project Officers to ensure compliance with reporting requirements.

J. Accountability:

To ensure that managers are held to high standards of accountability in achieving program goals under the Recovery Act, ONC and other agencies helping to administer HITECH funded activities will build on and strengthen existing processes. Senior ONC officials in the Office of the Executive Director will meet regularly with senior Department officials to ensure that projects are meeting their program goals, assessing and mitigating risks, and ensuring transparency. The personnel performance appraisal system will also incorporate Recovery Act program stewardship responsibilities for program and business function managers.

Accountability in terms of business functions will be monitored and documented through performance plans. Recovery Act awardees will be required to provide quarterly reports on progress. Following a thorough review of the progress reports, selected site visits will be taken if progress in meeting stated goals is delayed.

K. Barriers to Effective Implementation:

Staffing levels in ONC must be increased. With the current staff of 30 FTE, plans are to use all available human resources vehicles to increase the level of staffing. This will include term appointments for projects with short-term needs; details as permitted by Recovery Act legislation; a limited number of permanent positions for long-term projects; and other temporary and contractual agreements.

In order to ensure success of the HIT initiative, ONC will need to engage and ensure buy in from stakeholders in both the private and public sectors. ONC will engage stakeholders throughout the development process. ONC and other agencies helping to administer HITECH-funded activities will continue to increase communications and will develop consistent, measurable goals by which project execution will be measured, linking the planning process and the execution of the project plans in detail. Currently, there are many ways for stakeholders to get involved in ONC's deliberations, including:

- Listening to and participating during the public comment periods at the Health IT Policy Committee and the Health IT Standards Committee meetings.
- Commenting on draft program descriptions.
- Providing expert input and information to inform a report.

ONC and other agencies helping to administer HITECH funded activities will include in all funding announcements the requirement to accelerate work wherever possible. In addition, all grantees and contract awardees will be required to report quarterly to both ONC and through Recovery Act channels. ONC will also reflect the use of multi-year funding in the risk management plan and will include risk mitigation strategies. Furthermore, to ensure effective coordination of Federal health information technology activities, HHS will continue discussions with HHS partners such as OCR and CMS and others throughout the federal government such as VA, DoD, OPM, and SSA.

L. Federal Infrastructure Investments:

The activities described in this Implementation Plan are not related to building requirements or construction environmental impact issues.