

June 26, 2009

Office of the National Coordinator for Health Information Technology  
200 Independence Ave SW  
Suite 729D  
Washington, D.C. 20201

Attention: HIT Policy Committee Meaningful Use Comments

The Minnesota e-Health Initiative, a statewide public-private collaborative, is pleased to submit comments on the proposed definition of “meaningful use” as was presented at the June 16, 2009 National HIT Policy Committee meeting. We appreciate the efforts of the Office of the National Coordinator (ONC) in the implementation of the Health Information Technology for Economic and Clinical Health (HITECH) Act and your efforts to seek public comment.

The Minnesota e-Health Initiative strongly supports the goals that were used to form the basic framework for establishing criteria for “meaningful use”, including: improving quality, safety & efficiency, engaging patients & families, improving care coordination, improving population & public health, reducing disparities, and ensuring privacy & security protections.

The initiative also generally supports the direction that the workgroup described in terms of a phased-in series of improved clinical data capture and quality measurement and improvement to move toward health reform goals; however we are concerned about some elements of the proposed definition. In particular, we are concerned that the proposed timeline and definition of meaningful use may put eligibility for HITECH incentives out of reach for many providers and cause others to compromise the essential planning and workforce development that are necessary in order to implement their EHRs effectively.

Our detailed comments and recommendations on the proposed definition of meaningful use are attached. Should you have questions you may contact:

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Sincerely,



Scott Leitz  
Assistant Commissioner  
Minnesota Department of Health



## About the Minnesota e-Health Initiative

This coordinated response to the request for public comment was created by inviting and engaging multiple stakeholders from within the Minnesota health and healthcare system that participate in the Minnesota e-Health Initiative.

The Minnesota e-Health Initiative is a public-private collaborative in Minnesota whose vision is to accelerate the adoption and use of health information technology in order to improve health care quality, increase patient safety, reduce health care costs and improve public health. The Minnesota e-Health Initiative is guided by a statewide Advisory Committee with 25 representatives from interested and affected stakeholders. Details on the Minnesota e-Health Advisory Committee can be found at: <http://www.health.state.mn.us/e-health/advcommittee/index.html>.

**The Minnesota e-Health Initiative**  
**Comments and Recommendations on the Definition of “Meaningful Use”**  
**As Presented to the HIT Policy Committee on June 16, 2009**

**General Comments**

The Minnesota e-Health Initiative strongly supports the goals that were used to form the basic framework for establishing criteria for “meaningful use”, including: improving quality, safety & efficiency, engaging patients & families, improving care coordination, improving population & public health, reducing disparities, and ensuring privacy & security protections.

The initiative also generally supports the direction that the workgroup described in terms of a phased-in series of improved clinical data capture and quality measurement and improvement to move toward health reform goals. However, we do have some concern with regard to the timeline and some elements of the proposed definition.

We offer the following comments for your consideration as you refine the definition and prepare for implementation, and encourage you to consider the need to ensure that the criteria for measurement have sufficient clarity to allow state Medicaid agencies to administer the incentives through mechanisms other than self-attestation.

**Response to Specific Requests in “Meaningful Use: A Definition” presented on June 16:**

**1. Timeline of Requirements for “Meaningful Use”**

*“We seek specific stakeholder feed back on whether the recommended timeline of requirements is overly aggressive based on the current state of technology and the demands of new provider workflows, or not challenging enough to result in significant transformation, in light of the declining level of Medicare incentives in future years.”*

The Minnesota e-Health Initiative finds that the timeline for some of the requirements proposed are too aggressive and may not be adequately defined in the current draft. We are concerned that the proposed definition of meaningful use may put eligibility for HITECH incentives out of reach for many providers and cause others to compromise the essential planning and workforce development that are necessary in order to implement their EHRs effectively.

Experience in working with grantees of Minnesota’s 2006-2009 EHR grant and loan programs shows that providers who rush to implementation without thorough planning and readiness are more likely to encounter issues that threaten long-term investment and sustainability of EHR implementation. Meaningful use criteria applied too aggressively may leave out many small or rural providers who are moving forward responsibly with EHR planning and implementation.

These concerns are compounded because the objectives and measures proposed are being assigned to calendar years, rather than the first year that a provider qualifies as a meaningful user, or ‘payment year’ as outlined in the HITECH Act:

*“The term ‘first payment year’ means, with respect to covered professional services furnished by an eligible professional, the first year for which an incentive payment is made for such services under this subsection. The terms ‘second payment year’, ‘third payment year’, ‘fourth payment year’, and ‘fifth payment year’ mean, with respect to covered professional services furnished by such eligible professional each successive year immediately following the first payment year for such professional.”*

In order to accommodate the process that is required to successfully implement EHRs, it is essential for “meaningful use” to be defined progressively over time, adding requirements for patient engagement, interoperable exchange and quality reporting as appropriate. **In considering the fine balance between the need to drive more rapid implementation of HIT to achieve much needed health reform, the health care providers current state of adoption and implementation, and the challenges that lie ahead to make this transition successfully, we recommend adapting the current criteria to one of the two following strategies:**

**Strategy A: High, but Achievable Initial Criteria; Variable Start and Progression Linked to Incentive Payment Year** (ie. first year of meaningful use may be achieved in 2013 at initial criteria level) The initial criteria for meaningful use are the same regardless of which calendar year a provider or hospital first qualifies for incentive payments. First year requirements for meaningful use would be set at a high, but achievable level, and move us more rapidly toward our goals of health transformation. Under this strategy, while the criteria would be more robust, providers in the beginning stages of EHR adoption would have more time to work toward effective implementation and meaningful use without having to sacrifice the critical planning and readiness work required to sustain long-term success. Another strength of this strategy is that in setting the bar higher, it allows the opportunity to not just reward providers who have EHRs in place today for their current use, but challenge them to expand the use of their EHRs to include new components that will help us achieve the vision for meaningful use.

**Strategy B: Modest Initial Criteria in 2011; With Increasing Comprehensive and Challenging Criteria Tied to Each Calendar Year** (ie. providers seeking meaningful use in 2013 would need to meet criteria for both 2011 & 2013) First year requirements for meaningful use would be tied to calendar years and set more modestly in 2011 than currently proposed criteria, with a much more aggressive ramp up in the criteria for 2012, 2013, 2014, and 2015. Under this strategy, providers who are just getting started in using their EHR would be able to focus on a narrower list of requirements for 2011, familiarize themselves with the process for integrating new HIT into their practice environments, and would be better positioned to accelerate their efforts in the following years based on lessons learned. By identifying criteria for 2011 that focuses on priority transactions that are likely to make the greatest impact, we could still see significant progress toward health care transformation. Under this scenario, those providers who already have an EHR in place, would likely have access to incentives for their current EHR use, but would face the same acceleration in meaningful use criteria in years 2012-2015.

**2. Framing Measures for Key Public Health Conditions, Health Care Efficiency, Avoidance of Adverse Events:** *“The Workgroup is seeking feedback on how to best frame [EHR-generated] measures including measurement of key public health conditions, measuring health care efficiency, and measuring the avoidance of certain adverse events. These comments will be used to help revise the recommended measurement strategy to include more extensive and refined outcome measures for ‘meaningful use’ in 2013 and beyond.”*

The Minnesota e-Health Initiative recommends that as you move forward in developing the measures for meaningful use in the future, that you closely monitor and the progress of the National Quality Forum’s Health Information Technology Expert Panel (HITEP) and its related workgroups engaged in ongoing efforts to define how health information technology (IT) can evolve to effectively support performance measurement. HITEP is in the process of drafting a quality data set (QDS) and dataflow framework to empower automated, patient-centric, longitudinal quality measurement. We recommend that future measures incorporated into the requirements for meaningful use be consistent with the work of HITEP and require use of quality standards.

## Specific Comments Regarding Objectives & Measures for 2011

### Improve Quality, Safety, and Efficiency

- The Minnesota e-Health Initiative applauds the workgroup in identifying the capture of data in standardized coded format in its early objectives. This is a critical first step to ensure that we can successfully achieve semantic interoperability across clinical settings.
- Minnesota stakeholders have expressed concern that the requirement for Computerized Physician Order Entry on **ALL** order types is unattainable for 2011. The Minnesota e-Health Initiative recommends that criteria for 2011 focus specifically on prescription orders and that any expansion in the requirements for use of CPOE be pushed to future years.
- With regard to quality measures proposed for 2011, again we encourage you to continue to monitor the work of HITEP and the evolution of standards related to extracting quality data from electronic health records. We further ask that in establishing the quality measures, you ensure that the indicator is tied to an action that will improve care in the practice and for the population.
- Quality measurement through administrative data sets will continue to be an important component of performance measurement however it is outside the scope of electronic health records. For some quality measures, payers may be better situated to provide the information and can do so far more efficiently through administrative data. Specifically, for a measure like cervical or breast cancer screening, a primary care provider may not know when a patient has received one or both of these services through an OB/GYN.

### Engage Patients & Families

- The Minnesota e-Health Initiative supports the efforts to try to engage patients and families in their care, and recognizes the value of enabling patients to have access to their clinical information and appropriate educational resources. However, electronic communication of patient data must be preceded by successful deployment of clinical and internal processes for collection and reporting of patient health information.
- We recommend that as the criteria for meaningful use is further refined, this element be focused on key chronic conditions in the early years of meaningful use and expanded in future years.
- Additionally, we recommend that ONC pursue additional information to better understand the information needs and desires of patients prior to establishing criteria. For example, is the criteria related to providing each patient a clinical summary at each encounter consistent with patient interests? Measures in this area should also be based upon evidence based practice.

### Improve Care Coordination

- Exchange of key clinical information among providers of care is feasible only when the standards are defined, widely used, and only when they can be incorporated into a certified system. This measure may be more appropriate for 2013 and beyond.

### Improve Population & Public Health

- The Minnesota e-Health Initiative supports the inclusion of reporting requirements to immunization registries and public health agencies.
- Criteria for meaningful use in subsequent years should also include reportable cancer diagnoses (anatomic, dermatologic, hematologic pathology reports) to public health authorities as required by law, with additional reportable events and conditions to follow in subsequent years.

- We recommend the committee assess the effectiveness of syndromic surveillance. We also recommend limiting syndromic surveillance to those specific use cases that have clear and demonstrable value in the majority of states. If the proposed requirement that syndrome surveillance data be submitted to public health agencies, it is essential that “according to applicable law and practice” be retained in the objective.

#### Ensure Privacy & Security Protections

- The Minnesota e-Health Initiative supports the proposed objectives and measures for ensuring privacy and security protections for 2011. Further clarification is requested on how “entity under investigation” is determined. We have concerns that this may prevent a provider or hospital from meeting the meaningful use criteria based on unsubstantiated and false allegations.
- We recommend the committee also address the consequences for a provider or hospital after the resolution of an investigation that results in penalties or a substantiated allegation.