

HITECH Act

Legislation Overview

February 17, 2009

Overview

The Health Information Technology for Economic and Clinical Health (HITECH) Act was passed into law February 17th, 2009, as part of the American Recovery and Reinvestment Act, which was a stimulus package created in response to the great financial crisis. The HITECH Act incentivized the adoption of electronic health records (EHRs), promoted information sharing, strengthened security/privacy standards of HIPAA, and imposed penalties for HIPAA violations.

Major provisions include:

- **Promoting the adoption and use of Electronic Health Records (EHRs):**
 - Established multiple grant programs to help fund the healthcare industry's investment into information technology, including EHR systems.
 - As well as the ability for healthcare provider organizations to apply for low-interest rate loans to finance IT investments.
 - Created Medicare incentive payments that rewarded organizations using certified EHR systems, which were eventually phased out in favor of financial penalties for non-compliant organizations.
- **Formal codification of Health and Human Services' Office of the National Coordinator for Health Information Technology (ONC):**
 - ONC became formally assigned the duty of coordinating national efforts to modernize and implement health information technology and promote the exchange of electronic health information.
 - ONC is working to accomplish this through establishing and communicating standards, best practices, and goals around health information technology modernization.
- **Strengthening and expanding the Health Insurance Portability and Accountability Act (HIPAA) requirements:**
 - Established a breach notification requirement for all breached protected health information (PHI)
 - Breach notifications are posted on HHS' Office for Civil Rights (OCR) website
 - Increased monetary penalties for HIPAA violations
 - Increased resources available for enforcement and oversight activities
 - Empowered patients with the right to request an audit trail of disclosed personal health information
 - Business associates could now be charged with HIPAA violations

What Does This Mean for the Healthcare Industry?

The HITECH Act set the foundation of the modern health information technology landscape by incentivizing the adoption of the historically cost-prohibitive electronic health record systems. EHR/EMR systems are now widely used software platforms and are central for provider operations, finance, patient management, and care delivery. Providers also are now held to a higher standard of patient information protection and face violation fees for non-compliance.

What Does This Mean for the Contractors?

The HITECH Act established ONC certification requirements, which required technology developers to implement interoperability measures that are still in place today. It also increased the need for secure technology that prevented unauthorized access to protected health information. This act also increased the need to implementation services and managed service providers to help the industry achieve these goals and comply to these new frameworks.