HEALTH INFORMATION TECHNOLOGY & FEDERAL STIMULUS

November 3, 2009

The following newsletter will be sent weekly, and include the latest information on health information technology and the federal stimulus funding.

The newsletter is organized as follows:

- Update
- Word on the Street
- Timeline
- Resources

All old newsletters can be found on the website.

If you have any questions/comments about the content of the newsletter please direct your inquiry to Andie Martinez, Associate Director of Policy at amartinez@cpca.org.

Update

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I. Electronic Health Records and Meaningful Use

CPCA:

1. CPCA has developed a set of FAQs on EHR meaningful use funding. To view click here.

If there are additional questions you would like to see added to the FAQs please send them to Andie Martinez, Associate Director of Policy, at amartinez@cpca.org.

2. There will be a Medicaid EHR Incentive Funding Strategy call November 13 at 10am. The call is intended to determine the best and most efficient way in which to understand and comment on the meaningful use criteria. The material for the call is a series of questions that CPCA staff created using the meaningful use objectives and measures. If you are interested in meaningful use and EHRs within a clinic, please participate on the call.

Call Information
Call in number 1.866.469.3239 / Access code 28893321
Material: Click here

II. Health Information Exchange

Federal: No new information at this time.

State: From the CA eHealth Bulletin:
1. On Thursday October 15, CHHS submitted a $38.8 million proposal to the Office of the National Coordinator for health information exchange funding under the American Recovery and Reinvestment Act Of 2009 State Grants to Promote Health Information Technology Planning and Implementation Projects Funding Opportunity Number: Ep-Hit-09-001. A copy of the application is available on our website. ONC has indicated that states will be notified of the awards in December with an expected project initiation in January.

2. On August 25, CHHS published an RFI to determine if one or more organizations may qualify to be the State's Health Information Exchange Governance Entity (HIE-GE) to oversee and manage the development and implementation of statewide health information exchange services. Seven proposals were received on September 10, reviewed and scored by a committee, and two applicants were asked to submit responses to a host of questions and issues raised by the committee. The applicants then met with CHHS staff to discuss their responses. In late October, applicants were sent additional questions and asked to come in for a second meeting, and were notified that based on their proposals and responses to previous questions, neither entity had met CHHS's minimum criteria. The original review committee will meet again this week to review all submitted documentation and will brief executive State leadership next week. At this point, CHHS has the following options:

(i) Based on the RFI and subsequent responses select one of the entities as the HIE-GE
(ii) Require that the applicants join together to form a governance entity
(iii) If no respondent meets the requirements and the applicants cannot find a means to cooperate, CHHS will form a new public-private entity

At this stage we do not expect a decision until later this month. This process will not impact California's application for federal HIE funding; state's can designate an entity at any time.

3. In order to begin drawing down federal funding to begin implementing HIE services, CHHS must develop an Operational Plan and submit it for approval to ONC. As such we are establishing four new work groups:

a. eHealth Technical Committee
Next week we will officially launch our Operational planning process with the kick-off of the eHealth Technical Committee. The Committee's purpose is to design a health information exchange architecture or "blue print technical design document" that will be used as a basis for supporting California HIE services. The Committee is a multi-stakeholder collaboration made up of: hospitals, government, health plans, provider organizations and clinics, consumers, public health, HIOs, non-profits and associations and will be supported by a Working Group. It will also support an open public work group. This group will be open to everyone and will review interim documents and make suggestions to the Working Group and the Committee. Anyone interested in participating in the public work group should send a note to: hie@chhs.ca.gov. We will be publishing a timeline with meeting times and draft deliverables soon and will be using our wiki as our document

management and collaborative tool for this Committee and the additional workgroups below.

b. Additional Work groups
The State HIE application for federal funding describes three additional workgroups that will be formed this month. These include the following:

i. Financing workgroup: The workgroup will address the need to develop sustainable business models for HIE in California. The Finance Workgroup will evaluate HIE sustainability models in the context of California's market and propose business models to sustain the HIE infrastructure

ii. Underserved and Vulnerable Populations Workgroup: This Workgroup will address the specific needs of these population including children in foster care programs, aging and disabled population and the uninsured, and incorporate their needs into the operational plan. The Workgroup will advise the governance entity on its communication and outreach strategy to ensure the considerations of its constituents are known and addressed

iii. Patient Engagement Workgroup: This workgroup will identify innovative approaches to engaging and empowering patients through the use of technology that harnesses the HIE infrastructure.

CPCA: CPCA solicited participation from CIOs and any other CPCA members with HIT expertise to participate in the state's HIE operational plan process. Seven CPCA members volunteered to participate and CPCA commends each of them. As details about the plan are presented, we will keep you updated.

III. Regional Extension Center

CPCA: CPCA received a startling clarification from the federal Office of the National Coordinator of HIT the week of October 19 that will significantly affect how much federal funding Regional Extension Centers (RECs) can draw down on behalf of large clinics with multiple sites and public hospitals. The ONC has informed CPCA that RECs can only draw down funding on behalf of 10 priority primary care providers per organization or tax ID. So for a CCHC with 10 sites with 5 eligible providers per site, the REC program will only be able to draw down $50,000 ($5,000x10 providers) to support EHR adoption for that clinic, rather than the previously assumed $500,000 ($5,000 x 50 providers).

Because many clinics and public hospitals have many primary care sites under a single corporation, this will disproportionately affect their ability to draw down federal funds. If upheld, this policy will make Cal-REC eligible for only $20 million in grant funds, as opposed to the $60 million we have built our business model on. This will significantly affect our project plans to get primary care providers in large, multi-site clinics and public hospital settings to meaningful use.

This provider cap was not clear in the RFP. In fact, the ONC has yet to make this clarification regarding caps by organizational tax ID public. CPCA received this clarification in an email and a phone call. According to the ONC, there is uproar across the country about this development. CPCA has heard from other states that this is turning many projects on their heads.

CPCA has been in contact with NACHC on this issue. Both CPCA and NACHC believe this policy is in conflict with the Regional Extension Center's original statute. NACHC currently is taking measures to get further clarification from the ONC that this cap should NOT apply to community clinics. If Dr. David Blumenthal, Director of the ONC, takes the official position that the cap does indeed apply to CCHCs, NACHC intends to go back to the congressional Ways and Means Committee to get a statutory clarification that RECs were designed to prioritize federal dollars to primary care providers that serve predominantly vulnerable populations, i.e. public/critical access hospitals and community clinics. Therefore, the cap should not apply to those settings.

We continue to advocate for a change in this clarification at the federal level. However, Cal-REC recognizes that the issue will likely not be resolved by the application deadline of November 3rd. Therefore the Cal-REC partners have decided to submit applications, for both Northern and Southern California, which ignore the cap and assume that we will be successful in our argument.

IV. EHR Loan Fund

No new information at this time.

V. Workforce

No new information at this time.

VI. Telehealth and Broadband

State: Two Day Workshop on Telehealth

THE BASICS OF TELEHEALTH: DEVELOPING A SUSTAINABLE PROGRAM A TWO DAY WORKSHOP

SPONSORS: California HealthCare Foundation
HRSA Office of Information Technology
Open Door Community Health Centers
Humboldt State University

LOCATION: Telehealth and Visiting Specialist Center, Eureka, California
Humboldt Bay Aquatic Center, Humboldt State University, Eureka, California

DATES: Wednesday, November 4th through Thursday, November 5th

Audience: This workshop will be most useful to participants in the early stages of designing and developing uses for telehealth technologies. It will focus on the basics of ncorporating telehealth into health center activities and the provision of acute, chronic, specialty, educational and administrative services. Established programs looking to expand services will also find this workshop to be valuable. Small implementation teams are encourage to apply.

OVERVIEW: This practical workshop will cover a variety of topics found to be most important to the development of a sustainable, effective, efficient and patient-centered telehealth program. Participants will gain an understanding of:

- Telehealth technology and applications (face-to-face, broadcast, store-and-forward);
- Initial and ongoing equipment and personnel needs and costs;
- Recruiting, contracting and accessing providers and other resources, locally and remotely;
- Mix of services, financial relationships, billing and rate setting required to implement and sustain telehealth programs;
- Orientation and training of providers and support staff to incorporate telehealth as a usual part of treatment;
- Risk management, credentialing and liability issues;
- Integrating telehealth as a routine part of health center practices, including patient referrals and follow-through;
- Special considerations for using telehealth in the provision of psychiatric and behavioral health services;
- New and innovative uses of telehealth technologies; and,
- Importance and value of networking with other telehealth providers.

Information: If you have any questions about this conference, your registration, hotel accommodations or need to inform us of any special needs, please contact Jana Hoffman at jhoffman@opendoorhealth.com or 707-826-8633 x 143.

VII. Privacy and Security

Federal: HHS Releases Interim Final Rule Strengthening HIPAA Penalties

Last week, HHS released an interim final rule updating the HIPAA privacy and security rules to correspond with the stricter penalties imposed under the federal economic stimulus package, *Healthcare IT News* reports.

The health IT provisions of the stimulus package increased fines for health care organizations that experience a breach of protected health data.

The interim final rule will take effect Nov. 30. HHS said it will consider public comments on the rule until Dec. 29 (Monegain, *Healthcare IT News*, 11/2).

Rule Details

In its interim rule, HHS described four categories of health data security violations:

- Did not know;
- Reasonable cause;
- Willful neglect that was corrected; and
- Willful neglect that was not corrected.

The rule establishes financial penalties ranging from $100 to $50,000 for each violation.

It also sets a maximum yearly penalty of $1.5 million for all violations of an identical provision (Goedert, *Health Data Management*, 10/30).

Under the new rule, a health care organization can no longer avoid penalties for not knowing about a violation unless it fixes the problem within 30 days of identifying it (Mosquera, *Government Health IT*, 10/30).

Enforcement Still Unclear

The interim rule does not amend any of the HIPAA enforcement provisions included in the federal stimulus package.

Although the stimulus package calls for "periodic audits" to ensure HIPAA compliance, HHS has yet to release specific details about its audit and enforcement plans (Nicastro, *HealthLeaders Media*, 10/30).

The interim rule suggests that HHS will release further details about HIPAA enforcement during subsequent rulemaking (*Health Data Management*, 10/30).

State: The California Privacy & Security Advisory Board (CalPSAB) met on September 16 to discuss privacy and security guidelines. These guidelines will be used for HIE activity that use the HIE services developed under the HIE Cooperative Agreement Program. A 30-day public comment period for these guidelines will end on November 16. Public comments can be submitted via e-mail to: psab@ohi.ca.gov, more information about the process can be found here.

CPCA: The HIE workgroup met two weeks ago. The workgroup drafted comments in response to the CalPSAB consent recommendation, outlined above. To view CPCA's comments, click here. At the time that CPCA submitted comments there was no formal comment period, but rather an agreement from Bobbie Holm, Advisory Board Manager of CalOHII, that they would accept comments from CPCA on the proposed policies. Since CPCA submitted comments, CalPSAB has opened up their proposal for public comments. One of CPCA's comments was a recommendation that the proposal be vetted in a public comment period. We are appreciate to CalPSAB for recognizing the recommendation, and thank the CPCA members for providing such strong content for feedback.

If there are any additional comments not included in CPCA's comments, please share them with Andie Martinez (amartinez@cpca.org). The HIE workgroup has a conference call on November 5 at 3pm and will be discussing the comments again in case additional points are necessary.

Word on the Street

- CHHS has not yet chosen a HIE Governance Entity.
- CPCA, with partners, submitted the CalREC proposal and ignored the provider cap.

Timeline

To view the timeline, click here.

Resources

CPCA:

- FAQs:Medicaid EHR Incentive Funding
- EHR Meaningful Use Criteria- Questions
- Comments to CalPSAB re: bi-level consent recommendation
- CalREC- Updated FAQs

Andie Martinez, MPP
Associate Director of Policy
California Primary Care Association
1215 K Street, Suite 700
Sacramento, CA 95814
Phone: (916) 440-8170
Fax: (916) 440-8172
amartinez@cpca.org
www.cpca.org