

# The Electronic Health Record Mandate: What Is in Store for Small to Medium-Sized Dermatology Practices?

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## Practice Points

- If an eligible provider does not successfully demonstrate meaningful use of a certified electronic health record (EHR) system, he/she will be subject to a penalty that begins at 1% of one's allowable charges in 2015, increasing to 2% in 2016, 3% in 2017, and up to as much as 5% in the ensuing years.
- Although the US government has instituted incentives to encourage the use of EHRs, the high cost of initial implementation remains the greatest barrier to the adoption of EHR technology in small practices with limited resources.
- Certified EHR systems currently are unable to offer interconnectability among health care providers (ie, unable to share information), which is a strong impediment to the higher quality and more efficient care as well as the increased safety that EHRs are believed to offer to offset the high cost associated with their initial implementation.

One of the many measures of the American Recovery and Reinvestment Act<sup>1</sup> to help modernize the nation's infrastructure was the signing of the Health Information Technology for Economic and Clinical Health (HITECH) Act, which was enacted on February 18, 2009.<sup>2</sup> The HITECH Act provides incentives for physicians to adopt electronic health records (EHRs) that the US government believes will lead to higher quality, more efficient health care.<sup>2</sup> The US government certainly has good intentions in offering meaningful incentives to stimulate interest in the adoption of EHRs, but what about physicians and other eligible providers (EPs) who will not be ready by the 2015 deadline? Well, first the carrot, then the stick.

## First the Carrot

The Medicare and Medicaid EHR Incentive Programs began in 2011, allowing EPs to collect up to \$44,000

in incentives over 5 years under Medicare or up to \$63,750 over 6 years under Medicaid; however, physicians must meet several requirements to be eligible to receive incentive funds, such as using an EHR system that is certified by the US government and becoming a "meaningful user."<sup>3</sup>

Meaningful use is defined by the Centers for Medicare & Medicaid Services to give physicians the opportunity to qualify for monetary incentives while using EHR systems to advance health care in the United States. The benefits of meaningful use of EHRs are to provide complete and accurate information, facilitate better access to information, and help empower patients to take an active role in their health care.<sup>4</sup>

The objectives and measures defining meaningful use of EHRs were set to be implemented in 3 stages over 5 years.<sup>4</sup> Stage 1, which began in 2011 and currently is underway, mainly involves core measurements in data collection and sharing. Stage 2, which is set to begin in 2014, will add advanced clinical processes to the stage 1 criteria such as e-prescribing guidelines and more rigorous health information exchange. Stage 3 is scheduled to go into effect in 2016 and will center on

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The author reports no conflict of interest.  
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better health outcomes by improving quality, safety, and efficiency.<sup>4</sup> The maximum incentive payments are only awarded if EPs meet the criteria for all 3 stages of meaningful use.<sup>3</sup>

### Then the Stick

Eligible providers who do not have a certified EHR in place by 2015 will be subject to penalties. If the EP does not successfully demonstrate meaningful use of a certified EHR system, the penalty begins at 1% of one's allowable Medicare charges in 2015, which will increase to 2% in 2016, 3% in 2017, and up to as much as 5% in the ensuing years.<sup>5</sup> There are a few exemptions, but they do not apply to small and medium-sized practices.

Many health care professionals believe that the EHR mandate is part of the Patient Protection and Affordable Care Act and therefore if health care reform is delayed or repealed, the EHR mandate will disappear, which is not true. Although the American Recovery and Reinvestment Act resembles a stimulus law from President George W. Bush, President Barack Obama has wholeheartedly supported the EHR mandate. Based on the results of a 2005 study, it was believed that EHR technology would save \$81 billion in health care costs.<sup>6</sup> Although these bullish predictions regarding potential savings from EHR technology have since been scaled back,<sup>7</sup> the Obama administration has continued to support the implementation of the EHR mandate.

A March 2011 study estimated the total first-year cost of EHR implementation for a 5-physician practice to be \$233,297, with average per-physician costs of \$46,659,<sup>8</sup> which is a large expense for any business to incur. For smaller practices, the high start-up costs of EHR adoption are not offset by existing financial incentives. On the contrary, these practitioners, including many dermatologists, face uncertainty regarding the value they will receive.

### Small Practices and Implementation of EHR

Throughout the EHR implementation process, specialty health care societies, including the American Academy of Dermatology Association, have advocated for meaningful and practical changes to the EHR mandate.<sup>9</sup> Their message has been uniform: the requirements for implementation of EHR, including the meaningful use criteria, may be too ambitious for small practices, and there is a need for more flexibility. Although the US government has instituted incentives, both positive and negative, to encourage implementation of EHRs, the high cost of initial implementation remains the greatest barrier to the adoption of EHR technology in small practices. In a letter to Congress dated July 9, 2012, the undersigned

organizations expressed their immediate concern for small practices that do not have and simply cannot afford health information technology.<sup>10</sup> They strongly recommended the establishment of a small practice exception for physicians. They advised that a hardship exception of 3 years starting in 2015 would give small practitioners much-needed time to ensure a smooth implementation process and promote success in participating in the program.<sup>10</sup>

On March 21, 2013, Congressman Diane Black introduced the Electronic Health Records Improvement Act,<sup>11</sup> a bill that would implement reform to the current EHR incentive program to ensure that smaller practices are better prepared to adopt EHR technology. In a letter to Congressman Black supporting the bill, 20 specialty societies and organizations including the American Academy of Dermatology Association agreed that such legislation would bring about several common sense reforms, including a hardship exemption for small practices and physicians who are near retirement to avoid exacerbating workforce shortages.<sup>12</sup>

### Final Thoughts

The rush to adopt EHR technology has accelerated since the HITECH Act was signed, and the US government continues to believe that universal implementation of EHRs will substantially improve the quality, safety, and efficiency of the nation's health care system. Although these goals are laudable, unfortunately they are not within clear sight, as it appears EHR systems do not provide interconnectability among health care providers (ie, unable to share information).<sup>13</sup> Many physicians believe this limitation, which even applies to certified EHR systems, is a strong impediment to the higher quality and more efficient care as well as the increased safety that EHRs are believed to offer to offset the high cost associated with their initial implementation. Dermatologists are at the heart of this issue, as many of us have private practices or are in small or medium-sized groups, lacking the resources needed to implement EHRs without experiencing financial burdens if the immediate advantages are not readily available.

Although there is no turning back the clock on the adoption of EHR, let us hope that the US government will allow more time for small practices, demonstrate more understanding in its use of penalties, and become much more flexible in its regulations when it comes to the universal adoption of EHR.

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