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CCHIT and the ARRA EMR/EHR Incentives

Is MY EMR System Eligible for reimbursement with ARRA Funds?

By George W. Fallar, CTO

At first blush, one would think that solidifying the central concept of "meaningful use" of "certified" EMR/EHR software would be a simple matter. It has proven to be a difficult task for the Federal government to complete, yet it is of vital importance to the Electronic Medical Records (EMR) industry because it is the basis for the receipt of EHR Incentive funds under the American Recovery and Reinvestment Act of 2009 (ARRA). In fact, confusion over the certification procedure and the eligibility of EMR/EHR software has had a negative sales impact on most of the EMR/EHR companies we polled. Our contention is that most of this confusion has been brought on by people within our own industry in an attempt to gain an edge and thus market share.

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We attended a trade show recently with other Electronic Medical Record (EMR) system vendors. Of those competing EMR/EHR (Electronic Health Records) products, some had a CCHIT (Certification Commission for Health Information Technology) certification of some kind. We preface this paper with an acknowledgment that ZipChart® is not CCHIT certified. As a company, we reached this business decision for a good number of reasons, the major one being that the certification had little real world relevance to our specialty oriented software. Additionally, forcing our clients to use software that met rules superfluous to their specialty would necessitate adding bloated features that would significantly impact their productivity during a clinic day. While CCHIT has finally recognized the validity of specialty certifications, they insist on software first being certified (for a significant fee) for their more generalized ambulatory framework prior to obtaining the specialty certification (for an additional significant fee).

We listened to potential clients ask us why the other vendors were stating that ZipChart is not a "Certified" EMR and that a medical practice selecting ZipChart as their EMR would not be able to collect any of the ARRA HITECH funds that are being made available from CMS (Centers for Medicare & Medicaid Services) for providers that are demonstrating meaningful use of a certified EMR. The other vendors would then inevitably follow that remark with a statement that, since their software was already CCHIT certified, the ARRA funds (up to \$44,000 per provider) would be available to offset the investment in their software.

Here is what CCHIT has to say on their website about their certification programs also intended to meet or exceed the finalized ARRA standards for meaningful use and EMR/EHR certification:

The ARRA certification component of both programs (CCHIT Certified® 2011 and Preliminary ARRA 2011) is considered Preliminary because the definitions of meaningful use, criteria, and standards have been proposed but not yet finalized by the US Department of Health and Human services (HHS).

It should be noted that, as of this writing, there is NO CCHIT certification nor any other certification to be earned that qualifies any EMR/EHR system to be eligible for collection of ARRA funds. If potential buyers of an electronic medical records product have been informed otherwise, they have been misinformed either deliberately or simply by a vendor undereducated in the regulations affecting their industry.

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How is that possible? The US Department of Health and Human Services (HHS) Centers for Medicare and Medicaid Services (CMS) is responsible for the finalized set of standards that need to be met for ARRA certification. These

oxymoronically named "Interim Final Rules" were issued on December 31, 2009. After the comment period, it's possible that the actual final rules may be published by April, 2010.

The Interim Final Rules document acknowledges CCHIT certification and states that prior CCHIT-certified-EMRs will be able to meet the estimated finalized 40 Federal certification criteria, but not without further changes:

In general, previously CCHIT-certified-EHRs will need additional preparation to be tested and certified to 25% of the certification criteria adopted by the Secretary;

They go on to lump together "never certified EHRs" (like ZipChart) with what they term "out-of-date CCHIT-Certified-EHRs" (CCHIT certified prior to 2008) when estimating the amount of preparation required:

In general, out-of-date CCHIT-Certified-EHRs and never previously CCHIT-certified-EHRs will need additional preparation to be tested and certified to 60% of the certification criteria adopted by the Secretary;

The days of any CCHIT certification as a valid sales tool are obviously coming to an end, and the relevance of CCHIT itself will undoubtedly follow. While EMR/EHR consultants will undoubtedly continue to emphasize the importance of a CCHIT

certification for some time, the only certification that will really matter will be whatever the Federal certification may be. The recent resignation of the CCHIT chairman, never a good sign in any enterprise, may also indicate instability. While CCHIT will probably remain as a certifying body, they will also probably no longer be designing certification criteria.

So why are there so many EMR companies stating that they are CCHIT certified and already certified to enable practices to collect ARRA funds using their EMR? Most of it can be chalked up to marketing hype and snake oil salesmanship, our industry is not immune to the temptation of a quick buck. We had the opportunity to attend a workshop sponsored by one of our competitors regarding certification for ARRA funds, and were astonished at the amount of misinformation being Powerpointed around. Judging from the conversation I recently had with the CEO of a health care related company who should have known better, the balance of misstatements stem from a lack of understanding regarding the current and future certification processes.

The CCHIT organization has recently (October 7, 2009) opened the process for EMR vendors to become certified for CCHIT 2011 and Preliminary ARRA 2011 Certification even though the finalized standards have yet to be published by CMS. The CCHIT organization feels confident that, upon reading the recommendations that were presented to CMS by HHS and ONC (The Office of the National Coordinator for Health Information Technology), they have all the required items in their Preliminary ARRA 2011 certification program, and as such have begun offering EMR companies the opportunity to get certified. If they find the final standards CMS decides upon is different than what CCHIT anticipated, they will retest EMR software at no additional cost to the vendor and that vendor will be placed first in the queue to get the ARRA 2011 certification. There has been significant resistance to the CCHIT organization within the EMR industry and within the Federal government sanctioning bodies, so their certifications may be rendered completely moot.

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If an EMR vendor opts to certify for the CCHIT 2011 Certification, which is more costly than the Preliminary ARRA 2011 certification, CCHIT states they are confident that those EMRs will meet all the standards required for ARRA incentives.

Why not opt to become a CCHIT certified product and only go through one round of certification, assuming the ARRA certification will be built in and some sort of guarantee given by CCHIT? While that path may appear prudent, until the cost of certification testing by the eventual Federally approved testing facilities is announced, it makes little economic sense to pay CCHIT their fees. The "estimated" fee (from a September CCHIT PowerPoint) for a Preliminary ARRA certified EMR is currently \$33,000 with an annual \$5,000 renewal fee.

One only has to look at the numerous EMRs that have been CCHIT certified over the years and have been found by providers to be unusable, unintuitive and costly. EMRs that have proven to be inefficient and unproductive actually cost physicians more than the incentive money that is being offered by CMS for HIT adoption. Broken down, the maximum \$44,000 per provider being offered by the Federal government as an incentive to "go electronic" works out to \$169.23 per week per provider. It would take very little negative productivity shift for that incentive to disappear in a cloud of extra mouse clicks.

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CCHIT and some of the new Federal standards are designed to shift clinical decision making from the hands of the physician to the hands of the software developer and, in the process, will imperatively present software that is cumbersome and considerably more 'click heavy' than a clinician should have to deal with. One of the problems

with evaluating the efficacy of these software packages during the sales process is that, when software is demonstrated by an expert, the actual effort required to complete a patient encounter is NOT obvious. So, the medical practice will potentially invest a great deal of money and effort in a system that is guaranteed to slow down the most expensive person in the office, the physician.

One other consideration for EMR/EHR companies that has not had much discussion, but is addressed in a letter in the welcome section of the CCHIT's Preliminary ARRA 2011 Certification Handbook is that CCHIT may not continue to be the certifying body. Mark Leavitt, MD, PhD and resigned Chair of CCHIT and co-signed by Alisa Ray, Executive Director of CCHIT, state:

CCHIT is currently an HHS recognized certification body, and expects to continue that status under the accreditation process yet to be developed by HHS/ONC; however we are unable to guarantee that outcome.

If you are even more confused now, just know this; HHS and the ONC have sent a list of recommendations to CMS for the ARRA certification and the recommendations have been published. Any EMR/EHR company that intends to remain in business is paying a great deal of attention to the details of these recommendations. ZipChart has been closely following the recommendations, and as such has already implemented many of the items that have been recommended for ARRA certification. ZipChart has not implemented any of the recommendations that we feel will slow down the physician doing his normal work. When the final standards have been published and certifying body (or bodies) have been decided upon, ZipChart will move toward becoming certified in a way that neither hinders a physicians productivity nor have an negative impact on a practices' bottom line.

Very few people would argue that moving toward a more electronic medical record "universe" has a great deal of potential for making our health care system more efficient as a whole. So, the ARRA incentive funds can have a positive impact on the country. On the medical practice level, the incentive money would be nice to get, provided it doesn't cost more by having an inefficient system with negative usability issues. The number to remember when considering an EMR to accept the ARRA funding is NOT the very attractive \$44,000 total incentive, it is the \$169.23 per week per provider that's available. Each practice should do the math carefully and, depending on the specialty, it may even make very good economic sense to examine ONLY the potential productivity increase that will be afforded by an EMR/EHR system prospect and leave the ARRA funds uncollected.