

# ARRA HIT Grants Timeline

## Upon enactment

- Immediate funding to strengthen health information technology (funding to agencies to further adoption)
- Research and development programs to generate innovative approaches to information enterprise integration
- Application of new tiered civil monetary penalties based on the level of HIPAA violation, up to \$50,000 per violation and an annual maximum of \$1.5 million
- Enforcement by State Attorney Generals for offenses occurring post-enactment

## April 3, 2009 (45 days)

- Appointment of HIT policy Committee

## April 18th, 2009

- HHS Secretary will issue guidance on methodologies and technologies that render information unreadable (to use for the rule on breach notification)

## April 3, 2009 - May 18th 2009 (45 - 90 days)

- HIT Policy Committee makes recommendations to ONC on areas in which standards, implementation specifications and certification criteria are needed, including those to protect privacy, assure security, account for disclosures, encrypt information, and use EHRs for quality improvement

## May 18th 2009

- HIT Standards Committee to develop schedule for assessment of the policy recommendations developed by HIT Policy Committee
- NIST to conduct pilot testing of standards and implementation
- Draft description of program for establishing regional centers for HIT implementation assistance
- FY 2009 ONC Operating Plan - 90 Days

## August 16th 2009 (within 180 days of enactment)

- HHS and FTC must each promulgate interim final regulations on breach notification (applies to breaches discovered on or after the interim final regulations have been published). The FTC rules will apply to breach notification by PHRs that are not covered by HIPAA or business associate agreements.
- HHS Medicare Advantage Payment Report - 120 Days - 17 - Jun - 09
- PHI Disclosure Regulations go into effect after HHS adopts standards on accounting for disclosure - 6 months after adoption
- FTC Promulgation of Interim PHR Breach Notification Regulations - 6 months
- HHS appoints Privacy & Security Officers for regional HHS sites - 6 months
- HHS adopts initial set of standards, implementation, certification criteria - 8 months

## Fall, 2009 (No later than 45 days after the HIT Standards Committee delivers recommendations to ONC)

- ONC determines whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT standards committee and delivers these recommendations to the Secretary of HHS

## December 31st, 2009

- HHS Secretary in consultation with other Agencies will determine what standards should be adopted from those endorsed by ONC and the Secretary will adopt them through the rulemaking process
- HHS Secretary will release Interim Final regulations on standards, implementation specifications, and certification criterion
- HHS must adopt through rulemaking the initial prioritized set of security standards. These should include the accounting for disclosures. Regulations to implement the standard are due six months after the technical standard has been adopted.

## After January 1, 2010

- Grants for loans to states and Indian Tribes

**By October 1, 2010**

- Study and report to Congress on current availability of open source HIT systems to federal safety net providers, and recommendations for legislation or administrative action

**Effective January 1, 2010**

- State grants to support HIT (implementation and planning)

**February 17th, 2010 (one year)**

- Secretary of HHS shall appoint a chief privacy officer
- OCR and HHS are to launch an education initiative to improve public transparency on the use of health information
- GAO study on best practices for disclosure for treatment, and use of electronic informed consent
- HHS study and guidance on de-identification
- Covered entities must enter into BAAs with PHRs, HIE, and other services that handle PHI
- HHS issues rule on opting out of fundraising solicitations
- HHS offers first annual guidance on the most effective technical safeguards for carrying out the HIPAA security rule
- HHS and FTC study on privacy and security requirements for PHR vendors and applications
- HHS and OCR clarify application of criminal penalties to non-covered entities
- Application of privacy provisions and penalties to business associates
- HHS to issue rules on which entities are required to be business associates (although most of this will have been clarified by earlier HIPAA guidance)
- Right to restrict disclosures to health plans for services paid for out of pocket
- HHS Secretary to conduct periodic audits of entities covered by HIPAA
- Deeming of limited data set as satisfying minimum necessary standard
- Right of electronic access and copies
- Clarification of marketing provisions
- Civil monetary penalties and settlements flowing to OCR for enforcement.
- HHS may begin making competitive grant awards to states and Indian Tribes for loan programs to stimulate adoption of EHRs - 11 months
- ONC Report on Additional Funding or Authority Needed - 12 Months
- HHS Report on Competitive Grants w/ recommendations - 12 months
- HHS/FTC Report on Application of privacy/security requirements for non - HIPAA covered entities - 12 Months
- GAO Report on Best Practices for Treatment Disclosures - 12 months
- HHS Guidance on requirements for de - identification of PHI - 12 Months
- HHS Guidance on technical safeguards for business associates of covered entities - 12 Months
- ONC appoints Chief Privacy Officer - 12 months
- OCR develop a national education initiative on PHI - 12 Months
- HHS Report to Congress on number, nature, and response to breaches - 12 Months
- Deadline for covered entity/business associate compliance with new marketing regulations - 12 months
- Deadline for covered entity/business associate compliance with new fundraising restrictions - 12 months
- HHS Report on definition of psychotherapy notes and test data related to mental health evaluations - 12 months
- HHS Report to Congress that describes projects and recommendations based on demonstration projects for integrating certified EHR technology into clinical education - 12 months, annually
- HHS Report to Congress containing number, nature, and response to all breaches - 12 months, annually
- HHS Report to Congress containing number, nature, and response to all alleged violations of law pertaining to privacy and security of health information - 12 months, annually

**August 17th, 2010 (18 months)**

- Secretary's guidance on minimal necessary standards
- Regulations concerning sale of data prohibition (effective six months post promulgation)
- Promulgation of regulations for imposing penalties for wilful neglect with enforcement under the Social Security Act
- GAO report recommending penalties or settlements to harmed individuals
- HHS Report on Application of EHR payment incentives for providers not receiving other incentive payments

- 16 months
- GAO Report on Methodology for Individual Compensation - 18 months
- HHS Guidance on "minimum necessary" health information - 18 months
- HHS to evaluate impact of regulations restricting the exception of sale of data for research purposes and may further restrict the exception - 18 months
- HHS will be in charge of improved enforcement efforts for non - compliance issues - 18 months
- HHS Report on Availability of Open Source HIT Systems - 20 months

**Effective January 1, 2011**

- Accounting of disclosures for EHRs acquired after January 1st 2009. (Grandfather clause for audit trail)

**February 17th, 2011 (24 months)**

- Clarification of ability to pursue civil penalties when criminal penalties are not pursued. This applies to violations discovered on or after promulgation
- Requirements to impose civil monetary penalties in cases of willful neglect
- HHS Report on adoption of a Nationwide Health Information System, including actions toward adoption, barriers, and recommendations - 24 months
- HHS Report on reimbursement incentives for federally qualified health centers, rural health clinics and free clinics - 24 months
- HHS Report on use of "aging services technology" to assist seniors, individuals with disabilities and their caregivers - 24 months
- HHS to promulgate regulations to implement improved enforcement - 24 months
- FY 2011 ONC Operating Plan - Annually

**February 17th, 2012 (36 months)**

- Regulations for methodology for distributing penalties or settlement money to harmed individuals
- HHS to establish (based on GAO report) methods for how individuals may receive compensation for disclosure - 3 years

**Effective January 1, 2014**

- Accounting of disclosures for EHRs acquired before January 1st 2009. (Grandfather clause for audit trail)
- GAO study on impact of ARRA

**Effective 2016**

- Extended deadline for complying with new accounting and disclosure rules for information kept in EHRs acquired before 1.1.09

(**Source:** Compiled by Dr. Mark Frisse, Vanderbilt Regional Informatics Group, on the InformaticsResponse Web site, [www.informaticsresponse.org](http://www.informaticsresponse.org).)