



Health IT Policy and the 111th Congress First Quarter (January – April, 2009) Report

Amidst an economic downturn, the first few months of the 111th Congress included legislative plans to revitalize the U.S. economy and develop a strong information infrastructure to support healthcare throughout the U.S. The First Quarter Report on Health Information Technology (IT) and the 111th Congress aims to outline key milestones from January– April, 2009 that pertain to health IT policy. In addition, the report highlights corresponding HIMSS public policy and advocacy activities. Unlike no other time in U.S. history, Congress made significant steps in establishing leadership for national health IT initiatives and providing funding to bolster the electronic exchange of health information.

Overview

The 111th Congress was sworn in on January 6, 2009 with democrats as the majority in the U.S. House of Representatives and Senate. As of this month, democrats hold a 257 – 158 majority in the House and a 59 – 40 majority in the Senate (1 undecided seat). In alignment with goals of the Obama Administration, prominent legislative priorities this year include economic recovery, healthcare reform, and energy independence. On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), economic stimulus legislation that aims to jump start the U.S. economy through investments such areas as education, transportation, and health IT. With over a \$20 billion investment in health IT through the ARRA, health IT is viewed by many policy makers as the “Root of Healthcare Reform”.

After passage of the ARRA, Congress actively began deliberations on healthcare reform legislation. While the outlook is unclear on final health IT provisions, we can expect policy proposals to leverage health IT in efforts to improve the cost, quality, and access to healthcare. On April 27, 2009, Congress confirmed Governor Kathleen Sebelius (D-KS) to the position of Secretary, U.S. Department of Health and Human Services (HHS). In this position, Sebelius will play a pivotal role in setting forth health IT policy as called for through the ARRA and carrying out possible healthcare reform initiatives set-forth by Congress. In the coming months, Congress will examine healthcare reform proposals with a goal of passing legislation by the end of the Summer.

Milestones

Through January – April 2009, we can identify 6 milestones in the 111th Congress for health IT policy:

1. Reauthorization of the State Children’s Health Insurance Program:
2. Passage of the ARRA

3. Passage of the Omnibus Appropriations Act of 2009
4. Healthcare Reform Deliberations
5. Passage of the Fiscal Year 2010 Budget Resolution
6. Introduction of Health IT Legislation

A detailed description of the milestones and HIMSS' engagements with the health IT policy activities is as follows:

1. **Reauthorization of the State Children's Health Insurance Program:** In January, Congress passed H. R. 2, the State Children's Health Insurance Program (SCHIP) Reauthorization Act of 2009. The legislation expands SCHIP for four and a half years, funds the program through an increase in tobacco taxes, and extends SCHIP eligibility to those living at up to 300 percent above the poverty level. The health IT provisions include sharing best practices among states with respect to measuring and reporting techniques on the quality of healthcare for children that improve efficiency in data collection using health IT. The legislation establishes a grant program totaling \$20 million for states and child health providers to conduct demonstration projects that, among many things, will promote the use of health IT determined by the Secretary of HHS; and \$5 million for the development of model electronic health record format for children enrolled in Medicaid's SCHIP program. Upon enactment of the legislation, President Obama referred to the legislation as the first step in universal healthcare coverage.

HIMSS Activities: Throughout January 2009, HIMSS provided members updates on the background and status of H.R. 2 and its relevance to HIMSS members. Through enactment of H.R. 2, the American public saw their first glimpse of President Obama's and the Administration's dedication to reforming healthcare in the U.S. and leveraging health IT in the process.

2. **Passage of the ARRA:** On February 17, 2009, President Barack Obama signed into law the [American Recovery and Reinvestment Act of 2009, H.R. 1](#). The Act aims to stimulate the economy through investments in infrastructure, unemployment benefits, transportation, education, and healthcare. Among many things, the legislation codifies the ONC and establishes two federal advisory committees (HIT Standards and HIT Policy Committees) to make recommendations to the National Coordinator relating to the implementation of a nationwide health IT infrastructure, establishment of standards, implementation specifications, and certification criteria for the electronic exchange and use of health information. The legislation also includes over \$20 billion to aid in the development of a robust IT infrastructure for healthcare and to assist providers and other entities in adopting and using health IT. The legislation authorizes and appropriates \$2 billion for Office of the National Coordinator to carry-out their day-to-day activities and provide for grants as established through ARRA to assist providers in the adoption and utilization of health IT, to improve and establish education and training initiatives, and to foster health information exchange. The legislation also establishes incentive programs through Medicare and Medicaid to reward providers for demonstrating a meaningful use of certified electronic health records. Incentives are made available beginning in fiscal year 2011 for eligible

hospitals and calendar year 2011 for eligible professionals. The Congressional Budget Office estimate that the total cost to CMS for the incentives programs will be \$20.819 billion from FY09 – FY19. To carry-out many of the health IT provisions included in the legislation, HHS will engage in the rule-making process over the next two years.

HIMSS Activities: From the beginning of the new year, HIMSS was actively engaged in sharing its Call to Action recommendations with key stakeholders involved in Congressional deliberations surrounding economic stimulus legislation. Recognizing the value that health IT played in strengthening the economy and improving the overall delivery of healthcare, HIMSS provided Congressional leadership with detailed recommendations concerning the inclusion of health IT in economic stimulus legislation.

In an effort to ensure that economic stimulus legislation leveraged health IT, HIMSS provided Congress with detailed recommendations concerning the essential funding, standards, and leadership for health IT that was needed to help transform the way we do healthcare in the United States. HIMSS engaged in many one on one meetings with Congressional Offices, providing first hand knowledge and expertise on health IT policy, and also contributed to the dialogue through letters to key Congressional leadership that reside over powerful House and Senate Committees.

HIMSS' recommendations for economic stimulus legislation were derived from the December 2008 report entitled "Ensuring Healthcare Reform Using Information Technology: Recommendations for the Obama Administration and the 111th Congress". The report aimed to provide the Administration and Congress with some concrete recommendations for health IT in healthcare reform policy. The recommendations in the report were a product of the HIMSS Healthcare Reform through Healthcare IT Workgroup, a workgroup of over 100 HIMSS members (physicians, nurses, pharmacists, hospital and clinical practice leaders, consumers, IT specialists, consultants, lawyers, payors, vendors, and representatives from state-level health information exchange (HIE) organizations, and the federal government). Many of HIMSS' recommendations for economic stimulus legislation are reflected in the ARRA, such as investing a minimum of \$25 billion on health IT and establishing federal leadership for health IT.

In April, HIMSS began what will be a series of future comments, to the Administration concerning developing regulations and guidelines that are called for through the ARRA. On April 27, 2009, HIMSS published its definitions of 'meaningful use of certified EHR technologies,' as outlined in the American ARRA. HIMSS sent a cover letter, plus two definitions: 1) meaningful users of certified EHR technologies and 2) meaningful use for hospitals, to the National Coordinator of Health IT and the Acting CMS Commissioner, within the Department of Health and Human Services (HHS).

In an effort to help education HIMSS members on the policy and industry ramifications of the ARRA, HIMSS established a [website](#) entirely for materials and resources concerning the ARRA. The site includes HIMSS analyses of the legislation, a calculator for forecasting incentive payments, and weekly HIMSS news articles. At HIMSS09, HIMSS even held over ten education sessions concerning the ARRA. From March – May 2009, HIMSS is also facilitating [webinars](#) for members and the general public in an effort to provide detailed analysis and description of the policy and industry ramifications of the ARRA. Recordings and materials are available on the HIMSS website from all webinars.

- 3. Passage of the Omnibus Appropriations Act of 2009:** In March, Congress passed the Omnibus Appropriations Act of 2009, H.R. 1105. Because Congress did not complete work on 9 appropriations bills for 2009, this legislation includes funding for a collection of federal programs, such as healthcare, education, and the environment. The Omnibus Appropriations Act of 2009 made available \$61,231,000 for the Office of the National Coordinator for Health IT (ONC) to apply to such areas as grants, contracts, and cooperative agreements for the development and advancement of interoperable health IT. Funding for the ONC remained consistent with funding levels in previous years.

HIMSS Activities: Throughout March 2009, HIMSS provided members updates on the background and status of H.R. 1105. After passage of the legislation, Congress immediately began addressing the budget for fiscal year 2010.

- 4. Healthcare Reform Deliberations:** After passage of the ARRA, Congress hit the ground running to develop healthcare reform legislation by the end of the summer. Leading healthcare reform efforts in the House, Representative Henry Waxman (D-CA), Chairman of the House Energy and Commerce Committee, Representative George Miller (D-CA), Chairman of the House Education and Labor Committee, and Representative Charles Rangel (D-NY), Chairman of the House Ways and Means Committee expressed in a [letter to President Obama](#) their intent for the House to consider healthcare reform legislation by the August recess. Also in the letter, the caucus leaders stated that they would coordinate efforts among their committees (bring similar legislation before the committees) and work from a harmonized approach to ensure success. To date, the House Ways and Means Committee has held [four hearings](#) regarding healthcare reform in the 21st Century.

In the Senate, Senator Max Baucus (D-MT), Chairman of the Senate Finance Committee and Senator Edward Kennedy (D-MA), Chairman of the Senate Health, Education, Labor, and Pensions Committee (HELP Committee) are spearheading Senate deliberations on healthcare reform. In November 2010, both Senators set the ground work for their involvement in healthcare reform in the 111th Congress. To help lead efforts within the HELP Committee, Senator Kennedy named Senator Barbara Mikulski (D-MD) to lead a taskforce within the Committee concerning quality and healthcare reform, Senator Harkin (D-IA) to lead a taskforce on prevention, wellness and public health, and Senator Jeff

Bingaman (D-NM) to lead a taskforce on insurance coverage. To date, the Committee has held [hearings](#) and roundtable discussions with healthcare stakeholders to examine healthcare reform.

Building on his [“Call to Action”](#) report, released in November 2008, Senator Max Baucus is actively working within the Senate Finance Committee to meet his June deadline for mark-up of healthcare reform legislation. Senator Baucus’ 2008 report details next steps for healthcare reform, including a vision for policy and process in the upcoming healthcare reform debate. In regards to health IT, the report describes the need for incentives to assist providers in adopting EHRs and deadlines for harmonized standards. To help guide the Committee’s deliberations, Senator Baucus announced a schedule [for three roundtable discussions](#) among members of the Committee and healthcare stakeholders. In April, the Committee held the first roundtable discussion that focused on reforming America’s healthcare delivery system. The discussion mainly focused on success stories in healthcare delivery, the modernization of outdated payment systems, and promoting patient-centered delivery of healthcare. The Committee will hold two additional roundtables in May to focus on areas of access to healthcare coverage and the financing of healthcare reform.

Also in April, the Senate Finance Committee released the first of three policy papers on options for addressing healthcare reform. Health IT provisions in the [first policy paper](#) include broadening the eligible provider categories for EHR incentive payments to include nurse practitioners and physicians assistants, and certain post-acute care providers; identifying certain quality measures; exploring solutions to looming workforce shortages; and establishing regionally-based Diagnostic Imaging Exchange Networks. Committee Members and staff will examine each set of policy options and solicit feedback from Members to help inform the creation of the subsequent proposals the Committee will consider towards the development of one comprehensive proposal.

The Senate HELP and Finance Committees are expected to each develop legislation that will be merged into one comprehensive piece of healthcare reform legislation in the Senate.

HIMSS Activities: In the aftermath of the ARRA and building upon HIMSS’ recommendations included in the December 2008 report “Ensuring Healthcare Reform Using Information Technology: Recommendations for the Obama Administration and the 111th Congress”, HIMSS is actively engaged sharing information with key stakeholders involved with healthcare reform deliberations in Congress and the Administration.

To help provide specific focus for the Society’s activities in this area, HIMSS formed the Healthcare Reform Committee chaired by Board Vice Chair Liz Johnson to examine health IT’s role in healthcare reform and provide recommendations for leveraging health IT in transforming healthcare. The

Committee will build upon existing HIMSS policy position and recommendations and take into account the current legislation and industry landscape after enactment of the ARRA.

From February – April, and in the months going forward, HIMSS engaged in informational meetings with Congress and the Administration concerning the role for health IT in healthcare reform, highlighting the options that still need to be addressed by legislation, even after passage of the ARRA, such as investment in telehealth and the development of a patient identity solution. HIMSS has also provided written testimony to Congressional committees that have a role in developing healthcare reform legislation.

In an effort to keep HIMSS members updated on healthcare reform deliberations in Washington, DC, HIMSS also publishes a weekly healthcare reform update entitled “This Week’s View from Washington, DC”.

In the months ahead, HIMSS will continue to share information and knowledge with the Administration and Congress concerning healthcare reform and provide an opportunity for members to engage in the dialogue.

- 5. Passage of the Fiscal Year 2010 Budget Resolution:** On April 29, 2009, Congress passed the [FY10 Budget Resolution](#), budget guidance for the appropriations process that totals to nearly \$3.4 trillion and includes a deficit-neutral reserve fund for healthcare reform. The deficit neutral reserve fund for healthcare reform is intended to prevent healthcare reform initiatives from adversely impacting the federal deficit or potential future budget surpluses. In addition, the FY10 Budget Resolution includes reconciliation measures for healthcare reform and education, which are viewed as an attempt to block a filibuster of the legislation by the Senate. In the House, the inclusion of reconciliation measures only allows for the consideration of germane amendments that are deficit-neutral. In the Senate, debate is limited on a reconciliation bill and no amendment can be offered that would increase the federal deficit. Under the Budget Act, reconciliation legislation is not permitted to be filibustered by the Senate. In a democratically-controlled Senate, a reconciliation bill only needs a simple majority of 51 for passage, rather than the usual 60 votes. After passage of the FY10 Budget Resolution, Congress will now embark on the appropriations process to provide funding for government operations and such areas as education, healthcare, and defense.

HIMSS Activities: Throughout April 2009, HIMSS closely tracked this activity and provided member updates on the background and status of the Congressional Budget Resolution for FY10.

- 6. Introduction of Health IT Legislation:** Over the past four months, Congress has introduced over a [dozen pieces of health IT related legislation](#). This level of activity represents the bi-partisan appreciation and interest in the promise that health IT holds in transforming healthcare in the U.S. Some legislation, such as S.

179, the Health Information Technology Act of 2009, which among many things would establish a grant program to improve quality in healthcare and patient safety, are bills that have been reintroduced from the 110th Congress. In addition to the ARRA and SCHIP Reauthorization Legislation, other noteworthy pieces of legislation are the Health IT Public Utility Act of 2009, S. 890, and the Medicare Telehealth Enhancement Act of 2009, H.R. 2068. S. 890, introduced by Senator Jay Rockefeller (D-WV), aims to increase nationwide adoption of electronic health records, particularly among small, rural providers. The legislation would build upon the use of “open source” electronic health records by the Department of Veterans Affairs as well as the “open source exchange model,” which was recently expanded among federal agencies through the Nationwide Health Information Network-Connect initiative. H.R. 2068, introduced by Representative Mike Thompson (D-CA), aims to improve the provision of telehealth services under the Medicare Program and provide grants for the development of telehealth networks. Among many things, the legislation would require reimbursement for telehealth services regardless of geographic area and for use of telecommunications systems in home health visits. As Members of Congress seek to leverage health IT in healthcare reform, existing health IT legislation could be applied to healthcare reform proposals.

HIMSS Activities: To thoroughly examine legislation and develop suggested policy positions, HIMSS relies on the Advocacy & Public Policy Steering Committee, the Healthcare Reform Committee, the Legislation and Regulation Review Taskforce, the Government Relations Roundtable and the Chapter Advocacy Liaison Roundtable. Over the past months, these volunteer groups have played a critical role in providing input for HIMSS public policy and advocacy knowledge sharing activities. For additional information on health IT legislation and policy positions, HIMSS members are encouraged to access the [HIMSS Legislative Action Center](#). The exclusive tools enables members to access information on health IT legislation and communicate with their federal and state elected officials.

HIMSS Comments

HIMSS will continue to focus its educational outreach efforts on health IT policy within the 111th Congress and the Administration. For weekly updates on healthcare reform activities within the Administration and Congress, please access the [HIMSS Weekly Healthcare Reform Updates](#). A detailed listing of HIMSS’ recommendations for health IT’s role in healthcare reform can be found in the HIMSS report “[Enabling Healthcare Reform Using Information Technology](#)”. Information on the policy and industry ramifications of the ARRA can be accessed through the [HIMSS website](#). HIMSS encourages all members to stay informed and engaged in health IT advocacy and public policy. For additional information on content included in this document and HIMSS advocacy and public policy activities, please contact the HIMSS Government Relations Team at advocacy@himss.org.