

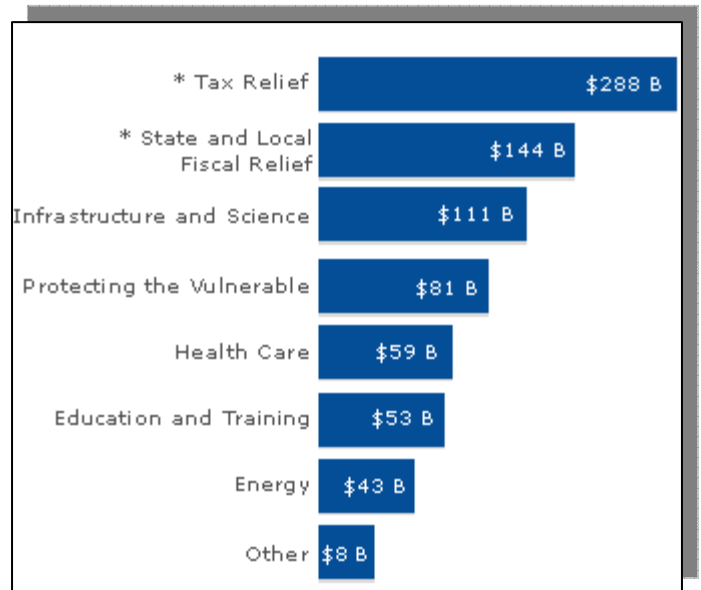


additional resources available at www.wha.org

American Recovery & Reinvestment Act

Overview

The American Recovery & Reinvestment Act of 2009 (ARRA), Public Law 111-5, was enacted on February 17, 2009. The stated goals of the ARRA are to jumpstart the economy, create or save jobs and build the foundation for long-term economic recovery. The ARRA includes \$787 billion worth of tax incentives, tax cuts, programs or payments. Many of those provisions impact the health care sector, including hospitals. How these new programs and projects will roll-out and what dollars will be available through the federal government, state government or local government has been the subject of many questions. This Toolkit piece is designed to provide a broad overview of the ARRA and to serve as a portal to the other available resources.



The breakdown of the \$787 billion under the ARRA.

Significant Health Care Provisions/Dollars

- **Health Information Technology Incentive Payments (Medicare and Medicaid)** –incentives to hospitals and physicians who adopt certified EMRs and become “meaningful users” (\$17 billion)
- **Health Information Technology Grants/Loans** – dollars to states to further HIT adoption (\$2 billion)
- **Health Information Technology Privacy Provisions** – expansion of privacy protections around electronic medical records
- **Federal Medicaid Matching Dollars** – increases federal matching funds for states by 6.2% (\$87 billion)



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- **COBRA** – provides 65% subsidy for workers involuntarily terminated (between 09/01/08 and 12/31/09), lasts for nine months. (\$25 billion)
- **Prevention and Wellness:** \$1 billion in funding for wellness and prevention programs, \$50 million for state health-associated infections reduction strategies; \$650 million for evidence-based clinical and community-based prevention and wellness strategies that deliver on addressing chronic disease rates
- **Community Health Centers:** \$1.5 billion for construction, renovation, and equipment, and for the acquisition of HIT systems, for community health centers, and \$500 million for services.
- **Health Care Provider Training:** \$300 million for the National Health Service Corps and \$200 million for physician and nurse training to address healthcare professional shortages.
- **Expansion of Broadband** – provides \$4.7 billion for a grant program to states and others plus an additional \$2.5 billion for loans and loan guarantees
- **Bank Deductibility of Tax-Exempt Bonds** – increase tax-exempt bond limit for banks; increases from \$10 million to \$30 million the annual issuance limit (2009-2010)

Details: Hospital Incentive Payments

Roughly \$17 billion in the AARA is budgeted to encourage the adoption of HIT primarily through Medicare incentive payments to hospitals (formula driven) and physicians (flat dollars amount).

Incentive payments for **Prospective Payment System (PPS) hospitals** are based on a formula ($\$2 \text{ million} \times \text{Medicare share} \times \text{transition factor}$) for being a “meaningful electronic medical records user.” Use of certified EHR systems, including information exchange, certified technology and reporting on quality measures, will qualify hospitals for incentive payments. Incentive payments begin in FY 2011 and will phase down over four years (re: transition factor of the payment formula). In other words, a hospital that is a meaningful EMR user in FY 2011-2013 will receive the full incentive payment in the first year, 75% the second year, 50% the third year and 25% the fourth year. Payments will be reduced if a hospital first qualifies for incentive payments in FY 2014 or FY 2015. Hospitals that are not meaningful users by FY 2016 will receive no payments. Unless hardship is demonstrated, hospitals that are not meaningful EMR users will see a third of their market-basket reduced in FY 2015, a two-thirds reduction in FY 2016 and a full market-basket reduction in FY 2017 and beyond.

Though not included in the original versions of the ARRA, the final negotiated version of the bill did provide some incentive payments for **Critical Access Hospitals (CAHs)**. CAHs will essentially be able to expense the cost of their HIT investments in a single year and not have to depreciate that out for cost reporting purposes. The portion of their HIT cost that may be expensed will be determined using a Medicare Share calculation (similar to the PPS calculation) PLUS an



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additional 20 percent (not to exceed 100 percent). No payments will be made beyond FY 2015 and CAHs not becoming meaningful users by FY 2015 will see reductions from 101% of cost down to 100% over three years.

Certain hospitals (**acute care and children's**) that have a Medicaid volume of 10% will also be eligible for Medicaid incentive payments. The incentive formula will be similar to the Medicare one, however, the Medicare share will be replaced with a Medicaid share calculation. The State of Wisconsin will have to match a portion of these dollars in order to access the Medicaid HIT funds. The Wisconsin Department of Health Services estimates eight Wisconsin hospitals would qualify for these dollars.

Details: HIT Privacy Provisions

The ARRA makes significant changes to the federal HIPAA privacy laws, including:

- New accounting requirements for disclosures through an electronic medical records for payment, treatment and health care operations;
- Creating new notification requirements for breaches of privacy or security of protected patient information;
- Refining "minimum necessary" standards;
- Limitations on use of patient health information for marketing purposes;
- Requiring that patients have an opportunity to opt out of fundraising communications;
- Expanding HIPAA provisions and penalties to business associates of health care providers;
- New prohibitions on certain sales of patient health information;
- Higher penalties for HIPAA violations;
- Allowing persons harmed by a HIPAA violation to share in a portion of a monetary penalty or settlement; and
- Allowing state attorney generals to enforce HIPAA.

Unless delayed by the Secretary of HHS, the accounting requirement will begin to apply on January 1, 2014, to disclosures from an electronic health record acquired before January 1, 2009, and on January 1, 2011 to disclosures from an electronic health record acquired after January 1, 2009. Additionally, many of the HIPAA changes require HHS to promulgate new regulations or guidelines during the next 18 months to fully implement the new requirements.

ARRA Resources

The federal and state governments are communicating information on the programs and available ARRA dollars through multiple websites. These website are being updated daily with new details on available dollars, application processes and related information.



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Access the Wisconsin Office of Recovery & Reinvestment website

<http://www.recovery.wisconsin.gov/>

Access the Federal Government's Recovery website

<http://www.recovery.gov/>

Access the Federal Department of Health & Human Services Recovery website

<http://www.hhs.gov/recovery/>

Access the ARRA (Public Law 111-5)

<http://fdsys.gpo.gov/fdsys/pkg/BILLS-111hr1ENR/pdf/BILLS-111hr1ENR.pdf>

Access the American Hospital Association's summary of programs/dollars under the ARRA

<http://www.wha.org/toolkit/2009ARRASummary.pdf>

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