

Funding, Opportunities and Risk for Health IT in Economic Stimulus

Howard A. Burde, Esquire
Howard Burde Health Law, LLC

Howard@BurdeLaw.com

www.BurdeLaw.com

Session Content

- ARRA Overview
- Show Me The Money?
- Definitions
- What's in it for me
- Issues and Opportunities

SHOW ME THE MONEY



Jerry Maguire (Tom Cruise) - Show me the Money (clean edit).url

ARRA is VERY Ambitious Legislation

- ARRA is VERY Ambitious Legislation
 - Fundamentally Changes Health IT
 - Redefines Government and Private Sector Roles
 - Federal Government Takeover as Strategic Leader, Coordinator and Policy Maker for Health IT. HIT Policy and HIT Standards Committees
 - Private Sector to participate in Government Processes.
 - In Place of Public/Private Cooperative. Traditional division of responsibility for a heavily regulated industry.
 - Regulations due within 9 months on a standards. Processes starting now
 - Federal Government as Major Funding Source
 - ARRA Presents Opportunity to Transform Health IT Through Investment and Law

ARRA: With the Opportunity to Transform Comes Risk . . .

- Definitions: Certified Qualified EHR; Meaningful Use; Eligible Professional; Significant Hardship
- Comparative Effectiveness
- Breach Notification/ State Law Preemption
- ONC Security Methods
- Regulations, Standards and Testing Coming Fast
- Enforcement

ARRA Risks and Opportunities

- Enforcement
 - HHS Office of Civil Rights – Privacy
 - CMS – Security
 - Justice Department
 - False Claims Act
 - Start and Antikickback Laws
 - Stored Communications Act
 - PHRs – Federal Trade Commission
 - State Attorneys General
 - Vaporware Liability

Show Me the Money

- Where is the money
 - Hospital / Clinic Provider
 - Physician Provider
 - States and State Designated Entities
 - Indian Tribes
 - FQHCs
 - HIT Regional Extension Centers
 - Clinical Education Curricula

What's In It for Me (my organization)

- Potential Funding Sources
 - Medicare or Medicaid Incentives
 - National Telecommunications & Information Administration
 - Department of Agriculture
 - Office of the National Coordinator
 - Veterans Benefits Administration
 - State planning and implementation grants
 - Department of Agriculture
 - Department of Commerce
 - AHRQ
 - Social Security Administration

Example Incentive Calculations

75-Bed Community Hospital

Maximum Medicare Health IT Payment Over Incentive Term						
2011	2012	2013	2014	2015	Total	
1,413,009	1,059,750	706,505	353,252	-	3,532,516	

250-Bed Community Hospital

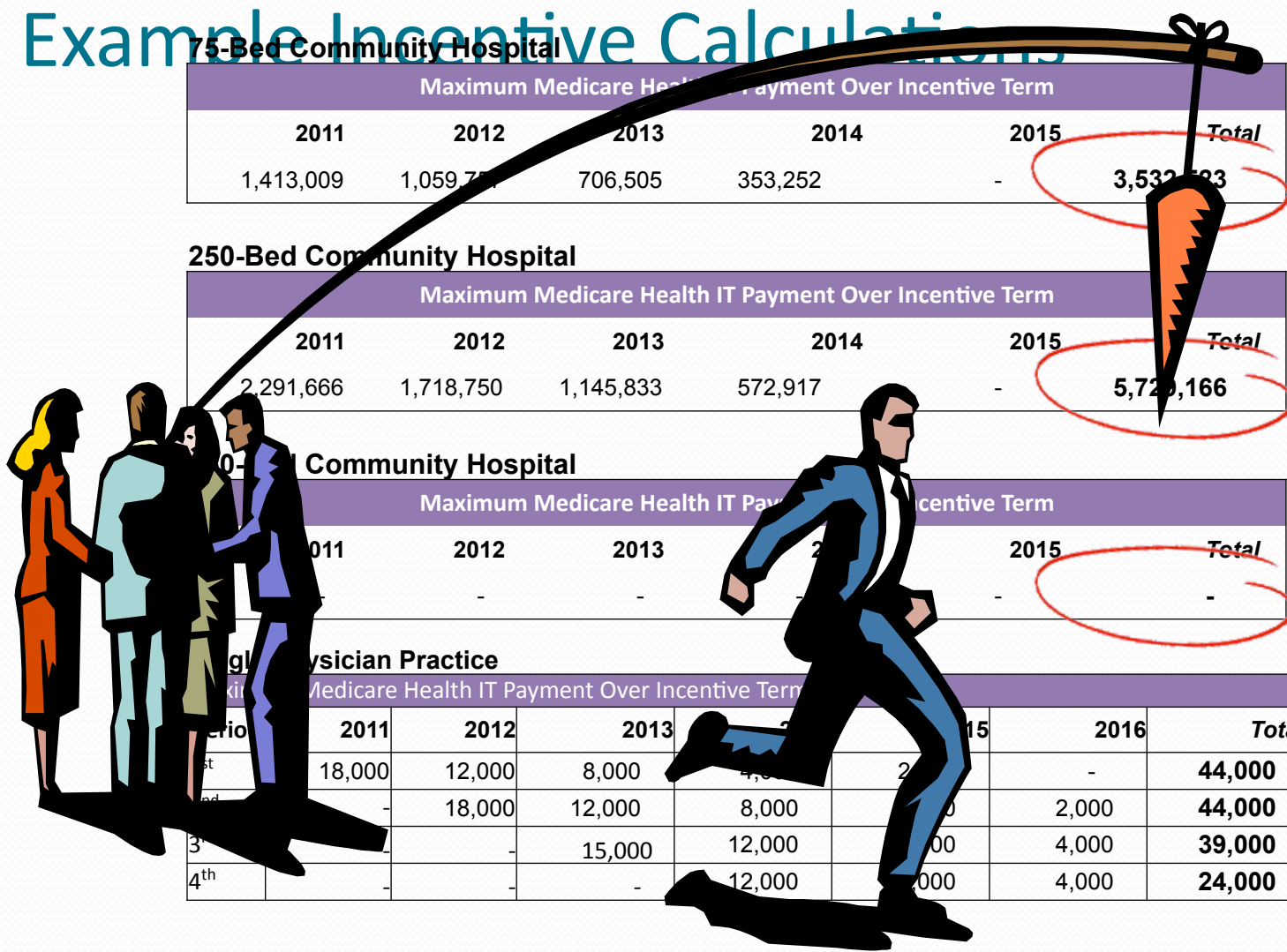
Maximum Medicare Health IT Payment Over Incentive Term						
2011	2012	2013	2014	2015	Total	
2,291,666	1,718,750	1,145,833	572,917	-	5,729,166	

100-Bed Community Hospital

Maximum Medicare Health IT Payment Over Incentive Term						
2011	2012	2013	2014	2015	Total	
-	-	-	-	-	-	-

Single Physician Practice

Period	2011	2012	2013	2014	2015	2016	Total
1st	18,000	12,000	8,000	4,000	2,000	-	44,000
2nd	-	18,000	12,000	8,000	4,000	2,000	44,000
3rd	-	-	15,000	12,000	8,000	4,000	39,000
4th	-	-	-	12,000	8,000	4,000	24,000



Meaningful Use

While much has been made of Meaningful Use, Pending a Definition from HHS, it only means three things within the current capabilities of existing technologies and users:

- EHR must be qualified, certified and include E-Prescribing
- Technology must provide for interoperability
- System must produce reports for clinical and quality metrics.

More Risks and Opportunities

- Changes to HIPAA
- Adjustments to Substance and Application of Privacy and Security Rules
 - Access to and Transmission of PHI
 - Accounting Disclosures
 - Marketing and Use of PHI
 - Limited Data Set/Minimum Necessary
 - Health Care Operations
 - Security Breach Notification/Delegation by CEs Coordination with State Laws

What HIPAA Changes Mean for Providers, Payers, Vendors and Patients

- Relationships have been changed by law.
- Covered entities and business associations must review BA Agreements.
- Disclosure Tracking Mechanisms: Software Upgrade? Policy Revisions? Workforce Retraining?
- Involvement Imperative: Definitional Changes to Marketing, Operations and Research will dramatically impact use and disclosure of data.
- Data Inventories and Network Topologies
- HIPAA Changes Directly Impact and Create Need to Review:
 - Current (hopefully) or impending (likely) Data Retention and Storage Policies and E-Discovery Response Plan
- Engage Counsel.

Action Items (cont'd)

- Connect and work with institutions of higher learning
- Research / investigate the HIE options in your region
- Work with your vendors to make sure they can scale
- Determine certification status of your applications

Action Items (cont'd)

- Get involved:
 - Regulatory Process Health Reform
- Understand the current Federal HIT Strategic Plan
- Monitor the activities of the ONC
- Get to Know Enforcers
- Regulatory Process
 - Result of the Big Trade-Off

Resources

- One-stop shop on the ARRA - www.himss.org/EconomicStimulus
- Summary - www.himss.org/content/files/HIMSSSummaryOfARRA.pdf
- Analysis - www.himss.org/EconomicStimulus
- FAQs - www.himss.org/EconomicStimulus/docs/HIMSS_FAQs_ARRA.pdf
- ONC - www.hhs.gov/healthit
- Recovery Information – www.recovery.gov

ARRA Risks and Opportunities

Questions?

Howard A. Burde, Esquire
Howard Burde Health Law, LLC
601 Lee Road
Wayne, PA 19087
(t) 610-616-3357
(c) 215-292-1246
(f) 866-591-9531
Howard@BurdeLaw.com
www.BurdeLaw.com