



Overview of the 2012 Legislative Report

House Bill 706 – Electronic Health Records – Regulations and Reimbursement

October 2012

Background

Maryland Health Care Commission (MHCC) is required to report to the Governor and General Assembly on the progress achieved toward adoption and meaningful use of electronic health record (EHRs) by health care providers in the State, and provide recommendations for any changes in State laws that may be necessary to achieve optimal adoption and use on or before October 12, 2012. House Bill 706, *Electronic Health Records – Regulation and Reimbursement* (HB 706), was signed into law by Governor Martin O'Malley on May 19, 2009. The purpose of the law is to advance health information technology (health IT) adoption and use among Maryland providers. The law, Md. Code Ann., Health-Gen. § 19-143, requires MHCC to, among other things: 1) designate a statewide health information exchange¹ (HIE), 2) identify EHR adoption incentives from certain State-regulated payers (payers), and 3) designate one or more management service organizations² (MSOs).

MHCC conducted an environmental scan in the spring of 2012 that assessed EHR adoption and meaningful use among physicians and allied health providers by administering a survey and conducting telephone interviews to develop the recommendations and strategies. MHCC collaborated with health systems, the designated statewide HIE, the Maryland Regional Extension Center (REC),³ management service organizations (MSOs), medical and allied health care societies, and payers to develop the recommendations. The recommendations are intended to mitigate barriers to EHR adoption and assist providers in meeting the requirements of meaningful use, including the electronic exchange of clinical information. Barriers to adoption include cost, EHR vendor selection, and loss of productivity during implementation. The recommendations include legislative actions and strategic initiatives to increase EHR adoption, meaningful use, and HIE use among providers.

Recommended State Laws to Achieve Optimal EHR Adoption and Meaningful Use

The following recommendations are aimed at increasing provider adoption and meaningful use of EHRs. The recommendations also seek to assist providers with meeting the requirements of advanced stages of meaningful use that will include the electronic exchange of clinical information.

Recommended State Laws to Achieve Optimal EHR Adoption and Meaningful Use		
Count	Recommendation	Description
1	By October 1, 2013, vendors that sell EHR systems used in outpatient settings in Maryland must: <ul style="list-style-type: none">Only sell EHR systems that:<ul style="list-style-type: none">Are currently certified by a nationally recognized certification organization; andHave the ability to contribute and consume clinical information from an HIE using then current nationally recognized standards;	Maryland law requires that by January 1, 2015, providers using an EHR system that seek payment from a State-regulated payer shall use a system that is nationally certified and is capable of connecting to the statewide HIE. In order to assist providers with meeting this requirement, vendors that sell ambulatory EHR systems to Maryland providers should be required to only sell EHR systems that have current certification from a nationally recognized organization.

¹ The statewide HIE is a clinical data sharing utility that allows for the private and secure electronic exchange of clinical information between unaffiliated health care providers throughout Maryland. The Chesapeake Regional Extension Center for our Patients is currently the statewide HIE. Other HIEs operate in Maryland.

² An MSO offers EHR adoption and implementation services to practices. More information about the MSO State Designation Program is available at: http://mhcc.maryland.gov/mhcc/Pages/hit/hit_mso/hit_mso. MSO must complete almost 95 criteria related to privacy, technical performance, business practices, resources, and security to become State designated.

³ The Maryland REC is operated by CRISP and provides support to certain physicians in adopting EHR systems and qualifying for meaningful use.

Recommended State Laws to Achieve Optimal EHR Adoption and Meaningful Use		
Count	Recommendation	Description
	<ul style="list-style-type: none"> Publish and keep current information about their: <ul style="list-style-type: none"> Capabilities to contribute and consume clinical information from an HIE; and Pricing for HIE capabilities and associated services. 	
2	<p>By October 1, 2013, HIEs operating in Maryland must publish and keep current information about their:</p> <ul style="list-style-type: none"> Services available for contributing and consuming clinical information from the HIE; and Pricing information for the services available. 	HIEs operating in the State may offer various services at different price points. In order to help providers make an informed decision about which HIE they would like to utilize, HIEs should publish their HIE capabilities, services, and the pricing.
3	By October 1, 2014, HIEs operating in Maryland shall connect to the designated statewide HIE to contribute and consume clinical information using then current nationally recognized standards.	HIEs that are connected to each other allow for the exchange of information across service areas, making the information available to any provider a patient may visit. To ensure that providers have the capability of exchanging patient information throughout the State, all organizations that meet the definition of an HIE must connect by 2014 to the State designated HIE to allow their participating providers to contribute and consume clinical information from the State designated HIE.
4	<p>Ambulatory providers⁴ using an EHR system shall be required to use an HIE to both contribute and consume clinical information by January 1, 2015.</p> <ul style="list-style-type: none"> Providers may apply for hardship exemptions that include one of the following scenarios: <ul style="list-style-type: none"> The lack of broadband Internet access; A new practice opens on or after calendar year 2015 (the practice has two years to comply with the requirement); or Other extenuating circumstances as determined by the MHCC. 	EHR systems must be capable of connecting to an HIE. Providers that adopt these systems must also use the capability to electronically exchange patient information in order for the health system to realize the benefits of HIE. Providers should be afforded with options for contributing and consuming data and be allowed to choose the option that best meets the needs of their practice. For example, some providers may use secure messaging to send and receive clinical information from an HIE, while others may choose to build interfaces between their EHR system and an HIE.
5	State-regulated payers shall provide increased reimbursement when ambulatory practices produce savings to the payer from participation in new or existing quality-based care delivery models that involve the use of a certified EHR and HIE services to both contribute and consume clinical information from an HIE.	EHR systems and HIE are essential infrastructure in quality-based care delivery models. Providers should receive an increased reimbursement when they demonstrate savings to the payer in these programs through the use of EHR systems and HIE. Qualitybased care delivery models may include existing initiatives or payers may design new models.

Strategies to Mitigate Barriers to EHR Adoption and Meaningful Use

Strategies formulated from the results of the environment scan addressed the barriers of EHR adoption including offsetting adoption costs, simplifying EHR system evaluation, and mitigating education and awareness challenges.

⁴ Ambulatory providers include office-based providers offering direct patient care outside of the hospital setting, including clinicians in community health clinics.

Implementing these strategies does not require changes in State law. Over the next year, MHCC intends to explore opportunities to implement these strategies.

Strategies to Mitigate Barriers to EHR Adoption and Meaningful Use		
Count	Strategies	Description
1	By October 1, 2013, modifications should be made to the existing State-regulated payer EHR adoption incentive regulation, COMAR 10.25.16 <i>Electronic Health Record Incentives</i> , to extend the program from its current end date of 2014 through 2017.	MHCC is currently studying whether the scope of the eligibility for the existing program should be expanded beyond primary care practices. The MHCC is collecting data from State-regulated payers on the program and may consider changes to the regulation based on analysis of the data and stakeholder feedback.
2	By October 1, 2013, payers required to participate in the State-regulated payer EHR adoption incentive program should make program information easily accessible on their websites and include the information in periodic provider communications.	Interviews with providers indicated that many have not been made aware of the State-regulated payer EHR adoption incentive program. It is recommended that the State-regulated payers involved in the program make information about the program easily accessible on their websites.
3	<p>The Maryland Regional Extension Center (REC), in collaboration with State Designated MSOs and medical and allied health care societies, should offer EHR system educational sessions that allow providers to try out EHR products.</p> <ul style="list-style-type: none"> • The medical and allied health care societies should offer continuing education credits for providers that participate in the EHR systems workshops. • The educational sessions should be ongoing and should begin by July 1, 2013. 	There are currently more than 1,700 certified EHR systems. The environmental scan revealed that providers' ability to see an EHR system product demonstration was incredibly helpful to their own adoption of an EHR system and would be helpful to those who are looking for a system. Convening educational sessions that allow providers to see and test EHR systems (a hands-on demonstration) will assist them with making the best choice for their practice, and offering continuing medical education credits to providers who attend these workshops will encourage them to participate.
4	By July 1, 2013, the Maryland REC, in collaboration with State Designated MSOs and medical and allied health care societies, should establish an EHR mentoring program to pair advanced EHR users with ambulatory practices interested in learning about products and best practices from existing users.	Providers repeatedly suggested that having a mentoring program where providers could visit a practice and see the EHR system in use would help providers with choosing an EHR system. Advanced EHR users can be champions of health IT by articulating the benefits of EHR systems to their peers and showing how they optimize use of the EHR system in their practice. They can also help their peers with choosing an EHR system that best meets the needs of their practice.

Remarks

MHCC worked closely with payers, HIEs, and State medical and allied health care associations in developing the recommendations. The stakeholders agreed that implementing the proposed changes in State law and adopting broad strategies to mitigate barriers will increase adoption of EHRs, meaningful use, and use of HIE. Most states are grappling with ways to take advantage of health IT to improve care delivery by creating efficiencies in the health care system. MHCC anticipates continued coordination with stakeholders in implementing any changes made to State law and strategies to mitigate barriers to EHR adoption and meaningful use in 2013.