

111TH CONGRESS
1ST SESSION

S. 890

To provide for the use of improved health information technology with respect to certain safety net health care providers.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2009

Mr. REID (for Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for the use of improved health information technology with respect to certain safety net health care providers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Information
5 Technology (IT) Public Utility Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) BOARD.—The term “Board” means the
2 Federal Consolidated Health Information Tech-
3 nology Board established under section 3.

4 (2) RPMS.—The term “RPMS” means the Re-
5 source and Patient Management System of the In-
6 dian Health Service.

7 (3) SECRETARY.—The term “Secretary” means
8 the Secretary of Veterans Affairs.

9 (4) VISTA.—The term “VistA” means the
10 VistA software program utilized by the Department
11 of Veterans Affairs.

12 **SEC. 3. FEDERAL CONSOLIDATED HEALTH INFORMATION**
13 **TECHNOLOGY BOARD.**

14 (a) ESTABLISHMENT.—To facilitate the implementa-
15 tion of electronic health record systems among safety-net
16 health care providers (particularly small, rural providers)
17 there shall be established within the Office of the National
18 Coordinator for Health Information Technology of the De-
19 partment of Health and Human Services, a Federal Con-
20 solidated Health Information Technology Board.

21 (b) BOARD OF DIRECTORS.—The Board shall be ad-
22 ministered by a board of directors that shall be composed
23 of the following individuals or their designees:

24 (1) The Secretary.

1 (2) The Under Secretary for Health of the De-
2 partment of Veterans Affairs.

3 (3) The Director of the Indian Health Service.

4 (4) The Secretary of Defense.

5 (5) The Secretary of Health and Human Serv-
6 ices.

7 (6) The Director of the Agency for Healthcare
8 Research and Quality.

9 (7) The Administrator of the Health Resources
10 and Services Administration.

11 (8) The Chairman of the Federal Communica-
12 tions Commission.

13 (c) DUTIES.—The Board shall—

14 (1) provide ongoing communication with exist-
15 ing VistA and RPMS user groups to ensure that
16 there is constant interoperability between such
17 groups and to provide for the sharing of innovative
18 ideas and technology;

19 (2) update VistA and RPMS open source soft-
20 ware (including health care provider-based electronic
21 health records, personal health records, and other
22 software modules) on a timely basis;

23 (3) implement and administer the 21st Century
24 HIT Grant Program under section 4, including pro-
25 viding for notice in the Federal Register as well as—

1 (A) determining specific health information
2 technology grant needs based on health care
3 provider settings;

4 (B) developing benchmarks for levels of
5 implementation in each year that 21st Century
6 grant funding is provided; and

7 (C) providing ongoing VistA and RPMS
8 technical assistance to grantees under such pro-
9 gram (either through the provision of direct
10 technical support or through the awarding of
11 competitive contracts to other qualified enti-
12 ties);

13 (D) develop mechanisms to integrate VistA
14 and RPMS with records and billing systems uti-
15 lized under the Medicaid and State children's
16 health insurance programs under titles XIX
17 and XXI of the Social Security Act (42 U.S.C.
18 1396 and 1397aa et seq.);

19 (4) establish a child-specific electronic health
20 record, consistent with the parameters to be set for
21 child electronic health records as provided for in the
22 American Recovery and Reinvestment Act of 2009,
23 to be used in the Medicaid and State children's
24 health insurance programs under titles XIX and
25 XXI of the Social Security Act, and under other

1 Federal children's health programs determined ap-
2 propriate by the board of directors;

3 (5) develop and integrate quality and perform-
4 ance measurement into the VistA and RPMS mod-
5 ules;

6 (6) integrate the 21st Century HIT Grant Pro-
7 gram under section 4 with the Federal Communica-
8 tions Commission's Rural Health Care Pilot Pro-
9 gram, with Department of Veterans Affairs hospital
10 systems, and with other Federal health information
11 technology health initiatives; and

12 (7) carry out other activities determined appro-
13 priate by the board of directors.

14 (d) ANNUAL AUDITS.—The Comptroller General of
15 the United States shall annually conduct an audit of the
16 activities of the Board during the year and submit the re-
17 sults of such audits to the appropriate committees of Con-
18 gress.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated such sums as may be nec-
21 essary to carry out this section.

22 **SEC. 4. 21ST CENTURY HEALTH INFORMATION TECH-**
23 **NOLOGY (HIT) GRANTS.**

24 (a) ESTABLISHMENT.—The Board shall establish a
25 grant program, to be known as the 21st Century Health

1 Information Technology (HIT) Grant program, to award
2 competitive grants to eligible safety-net health care pro-
3 viders to enable such providers to fully implement VistA
4 or RPMS with respect to the patients served by such pro-
5 viders.

6 (b) ELIGIBILITY.—

7 (1) IN GENERAL.—To be eligible to receive a
8 grant under subsection (a), an entity shall—

9 (A) be—

10 (i) a public or nonprofit health care
11 provider (as defined in section
12 254(h)(7)(B) of the Communications Act
13 of 1934 (47 U.S.C. 254(h)(7)(B)), includ-
14 ing—

15 (I) post-secondary educational in-
16 stitutions offering health care instruc-
17 tion, teaching hospitals, and medical
18 schools;

19 (II) a community health center
20 receiving a grant under section 330 of
21 the Public Health Service Act (42
22 U.S.C. 254) or a health center that
23 provides health care to migrants;

24 (III) a local health department or
25 agency, including a dedicated emer-

1 agency department of rural for-profit
2 hospitals;

3 (IV) a community mental health
4 center;

5 (V) a nonprofit hospitals;

6 (VI) a rural health clinics, in-
7 cluding a mobile clinic;

8 (VII) a consortia of health care
9 providers, that consists of 1 or more
10 of the entities described in clauses (i)
11 through (vi); and

12 (VIII) a part-time eligible entity
13 that is located in an otherwise ineli-
14 gible facility (as described in section
15 5(b); or

16 (ii) a free clinic (as defined in para-
17 graph (4); and

18 (B) submit to the Board as application at
19 such time, in such manner, and containing such
20 information as the Board may require.

21 (2) NON-ELIGIBLE ENTITIES.—

22 (A) IN GENERAL.—An entity shall not be
23 eligible to receive a grant under this section if
24 such entity is a for-profit health care entity (ex-
25 cept as provided for in paragraph (1)(A)), or

1 any other type of entity that is not described in
2 such paragraph, including—

3 (i) an entity described in paragraph
4 (1)(A) that is implementing an existing
5 electronic health records system;

6 (ii) an entity that is receiving grant
7 funding under the Federal Communication
8 Commission Rural Health Pilot Program;

9 (iii) an entity receiving funding for
10 health information technology through a
11 Medicaid transformation grant under title
12 XIX of the Social Security Act (42 U.S.C.
13 1936 et seq.);

14 (iv) a private physician office or clinic;

15 (v) a nursing home or other long-term
16 care facility (such as an assisted living fa-
17 cility);

18 (vi) an emergency medical service fa-
19 cility;

20 (vii) a residential substance abuse
21 treatment facility;

22 (viii) a hospice;

23 (ix) a for-profit hospital;

24 (x) a home health agency;

25 (xi) a blood bank;

- 1 (xii) a social service agency; and
2 (xiii) a community center, vocational
3 rehabilitation center, or youth center.

4 (B) OTHER ENTITIES.—An entity shall not
5 be eligible to receive a grant under this section
6 if such entity is receiving Medicare or Medicaid
7 incentive funding under any of the amendments
8 made by title IV of division B of the American
9 Recovery and Reinvestment Act of 2009.

10 (3) PREFERENCE.—In awarding grant under
11 this section the Board shall give preference to appli-
12 cants that—

13 (A) are located in geographical areas that
14 have a greater likelihood of serving the same
15 patients and utilizing interoperability to pro-
16 mote coordinated care management; or

17 (B) demonstrate the greatest need for such
18 award (as determined by the Secretary).

19 (4) DEFINITION.—In this subsection, the term
20 “free clinic” means a safety-net health care organi-
21 zation that—

22 (A) utilizes volunteers to provide a range
23 of medical, dental, pharmacy, or behavioral
24 health services to economically disadvantaged

1 individuals the majority of whom are uninsured
2 or underinsured; and

3 (B) is a community-based tax-exempt orga-
4 nization under section 501(c)(3) of the Internal
5 Revenue Code of 1986, or that operates as a
6 program component or affiliate of such a
7 501(c)(3) organization.

8 An entity that is otherwise a free clinic under this
9 paragraph, but that charge a nominal fee to pa-
10 tients, shall still be considered to be a free clinics if
11 the entity delivers essential services regardless of the
12 patient's ability to pay.

13 (c) USE OF FUNDS.—An entity shall use amounts re-
14 ceived under a grant under this section to fully implement
15 the VistA or RPMS with respect to the patients served
16 by such entity. Such implementation shall include at least
17 the meaningful use (as defined by the Secretary of Health
18 and Human Services) of such systems, including any on-
19 going updates and changes to such definition.

20 (d) TERM AND RENEWAL.—A grant under this sec-
21 tion shall be for a period of not to exceed 5 years and
22 may be renewed, as determined appropriate by the Board,
23 based on the achievement of benchmarks required by the
24 Board.

25 (e) ANNUAL REPORTING.—

1 (1) BY GRANTEES.—Not later than 1 year after
2 the date on which an entity receives a grant under
3 this section, and annually during each year in which
4 such entity has received funds under such grant,
5 such entity shall submit to the Board a report con-
6 cerning the activities carried out under the grant.

7 (2) BY BOARD.—Not later than 2 years after
8 the date of enactment of this Act, and annually
9 thereafter, the Board shall submit to the appropriate
10 committees of Congress a report concerning the ac-
11 tivities carried out under this section, including—

12 (A) a description of the grants that have
13 been awarded under this section and the pur-
14 poses of such grants;

15 (B) specific implementation information
16 with respect to activities carried out by grant-
17 ees;

18 (C) the costs and savings achieved under
19 the program under this section;

20 (D) a description of any innovations devel-
21 oped by health care providers as a result of the
22 implementation of activities under this grant;

23 (E) a description of the results of grant
24 activities on patient care quality measurement

1 (including reductions in medication errors and
2 the provision of care management);

3 (F) a description of the extent of electronic
4 health record use across health care provider
5 settings;

6 (G) a description of the extent to which in-
7 tegration of VistA and RPMS with Medicaid
8 and State children's health insurance program
9 billing has been achieved; and

10 (H) any other information determined nec-
11 essary by the Board.

12 (f) ANNUAL AUDITS.—The Comptroller General of
13 the United States shall annually conduct an audit of the
14 grant program carried out under this section and submit
15 the results of such audits to the Board and the appro-
16 priate committees of Congress.

17 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out this section—

19 (1) \$2,000,000,000 for each of fiscal years
20 2010 and 2011; and

21 (2) \$1,000,000,000 for each of fiscal years
22 2012 through 2014.

1 **SEC. 5. 21ST CENTURY HEALTH INFORMATION TECH-**
2 **NOLOGY DEMONSTRATION PROGRAM FOR IN-**
3 **ELIGIBLE ENTITIES.**

4 (a) IN GENERAL.—The Board may use not to exceed
5 10 percent of the amount appropriate for each fiscal year
6 under section 4(g) to award competitive grants to eligible
7 long-term care providers for the conduct of demonstration
8 projects to implement VistA or RPMS with respect to the
9 individuals served by such providers.

10 (b) ELIGIBILITY.—

11 (1) IN GENERAL.—To be eligible to receive a
12 grant under subsection (a), an entity shall—

13 (A) be a—

14 (i) nursing home or other long-term
15 care facility (such as an assisted living fa-
16 cility);

17 (ii) a hospice; or

18 (iii) a home health agency; and

19 (B) submit to the Board as application at
20 such time, in such manner, and containing such
21 information as the Board may require, includ-
22 ing a description of the manner in which the
23 applicant will use grant funds to implement
24 VistA or RPMS with respect to the individuals
25 served by such applicant to achieve one or more
26 of the following:

1 (i) Improve care coordination and
2 chronic disease management.

3 (ii) Reduce hospitalizations.

4 (iii) Reduce patient churning between
5 the hospital, nursing home, hospice, and
6 home health entity.

7 (iv) Increase the ability of long-term
8 care patients to remain in their homes and
9 communities.

10 (v) Improve patient completion, and
11 provider execution, of advance directives.

12 (2) NONELIGIBILITY.—An entity shall not be
13 eligible to receive a grant under this section if such
14 entity is receiving Medicare or Medicaid incentive
15 funding under any of the amendments made by title
16 IV of division B of the American Recovery and Rein-
17 vestment Act of 2009.

18 (c) USE OF FUNDS.—An entity shall use amounts re-
19 ceived under a grant under this section to implement the
20 VistA or RPMS with respect to the individuals served by
21 such entity. Such implementation shall include at least the
22 meaningful use (as defined by the Secretary of Health and
23 Human Services) of such systems, including any ongoing
24 updates and changes to such definition.

1 (d) DURATION.—A grant under this section shall be
2 for a period of not to exceed 3 years, as determined appro-
3 priate by the Board.

4 (e) REPORTING.—The Board, as part of the report
5 submitted under section 4(e)(2), shall provide comprehen-
6 sive information on the activities conducted under grants
7 awarded under this section.

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