

(C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;

(D) participation, to the extent practicable, in health information exchanges;

(E) utilization, when appropriate, of the expertise and capability that exists in Federal agencies other than the Department; and

(F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

#### (4) Regional assistance

Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

(A) Public or not-for-profit hospitals or critical access hospitals.

(B) Federally qualified health centers (as defined in section 1395x(aa)(4) of this title).

(C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

#### (5) Financial support

The Secretary may provide financial support to any regional center created under this subsection for a period not to exceed four years. The Secretary may not provide more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such a center, except in an instance of national economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

#### (6) Notice of program description and availability of funds

The Secretary shall publish in the Federal Register, not later than 90 days after February 17, 2009, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:

(A) A detailed explanation of the program and the programs<sup>1</sup> goals.

(B) Procedures to be followed by the applicants.

(C) Criteria for determining qualified applicants.

(D) Maximum support levels expected to be available to centers under the program.

#### (7) Application review

The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

(A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;

(B) the types of service to be provided to health care providers;

(C) geographical diversity and extent of service area; and

(D) the percentage of funding and amount of in-kind commitment from other sources.

#### (8) Biennial evaluation

Each regional center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center's performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.

#### (9) Continuing support

After the second year of assistance under this subsection, a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

(July 1, 1944, ch. 373, title XXX, § 3012, as added Pub. L. 111-5, div. A, title XIII, § 13301, Feb. 17, 2009, 123 Stat. 247.)

### § 300j-33. State grants to promote health information technology

#### (a) In general

The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

#### (b) Planning grants

The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (f)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (d).

#### (c) Implementation grants

The Secretary may award a grant to a State or qualified State designated<sup>1</sup> entity that—

<sup>1</sup> So in original.

<sup>1</sup> So in original. Probably should be "State-designated".

(1) has submitted, and the Secretary has approved, a plan described in subsection (e) (regardless of whether such plan was prepared using amounts awarded under subsection (b));<sup>2</sup> and

(2) submits an application at such time, in such manner, and containing such information as the Secretary may specify.

**(d) Use of funds**

Amounts received under a grant under subsection (c) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include—

(1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;

(2) identifying State or local resources available towards a nationwide effort to promote health information technology;

(3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;

(4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;

(5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;

(6) assisting patients in utilizing health information technology;

(7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 300jj-32 of this title, to the extent they are available and valuable;

(8) supporting public health agencies' authorized use of and access to electronic health information;

(9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and

(10) such other activities as the Secretary may specify.

**(e) Plan**

**(1) In general**

A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State-designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

**(2) Required elements**

A plan described in paragraph (1) shall—

(A) be pursued in the public interest;

(B) be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 300jj-11 of this title;

(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and

(D) contain such elements as the Secretary may require.

**(f) Qualified State-designated entity**

For purposes of this section, to be a qualified State-designated entity, with respect to a State, an entity shall—

(1) be designated by the State as eligible to receive awards under this section;

(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

(5) conform to such other requirements as the Secretary may establish.

**(g) Required consultation**

In carrying out activities described in subsections (b) and (c), a State or qualified State-designated entity shall consult with and consider the recommendations of—

(1) health care providers (including providers that provide services to low income and underserved populations);

(2) health plans;

(3) patient or consumer organizations that represent the population to be served;

(4) health information technology vendors;

(5) health care purchasers and employers;

(6) public health agencies;

(7) health professions schools, universities and colleges;

(8) clinical researchers;

(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

(10) such other entities, as may be determined appropriate by the Secretary.

**(h) Continuous improvement**

The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest improvement in quality of care, decrease in costs, and the most effective authorized and secure electronic exchange of health information.

**(i) Required match**

**(1) In general**

For a fiscal year (beginning with fiscal year 2011), the Secretary may not make a grant under this section to a State unless the State agrees to make available non-Federal contributions (which may include in-kind contributions) toward the costs of a grant awarded under subsection (c) in an amount equal to—

(A) for fiscal year 2011, not less than \$1 for each \$10 of Federal funds provided under the grant;

<sup>2</sup>So in original. Another closing parenthesis probably should precede the semicolon.

(B) for fiscal year 2012, not less than \$1 for each \$7 of Federal funds provided under the grant; and

(C) for fiscal year 2013 and each subsequent fiscal year, not less than \$1 for each \$3 of Federal funds provided under the grant.

**(2) Authority to require State match for fiscal years before fiscal year 2011**

For any fiscal year during the grant program under this section before fiscal year 2011, the Secretary may determine the extent to which there shall be required a non-Federal contribution from a State receiving a grant under this section.

(July 1, 1944, ch. 373, title XXX, §3013, as added Pub. L. 111-5, div. A, title XIII, §13301, Feb. 17, 2009, 123 Stat. 250.)

**§ 300jj-34. Competitive grants to States and Indian tribes for the development of loan programs to facilitate the widespread adoption of certified EHR technology**

**(a) In general**

The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

**(b) Eligible entity defined**

For purposes of this subsection, the term “eligible entity” means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]) that—

(1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;

(2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;

(3) provides assurances to the National Coordinator that the entity will establish a Loan Fund in accordance with subsection (c);

(4) provides assurances to the National Coordinator that the entity will not provide a loan from the Loan Fund to a health care provider unless the provider agrees to—

(A) submit reports on quality measures adopted by the Federal Government (by not later than 90 days after the date on which such measures are adopted), to—

(i) the Administrator of the Centers for Medicare & Medicaid Services (or his or her designee), in the case of an entity participating in the Medicare program under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or the Medicaid program under title XIX of such Act [42 U.S.C. 1396 et seq.]; or

(ii) the Secretary in the case of other entities;

(B) demonstrate to the satisfaction of the Secretary (through criteria established by the Secretary) that any certified EHR tech-

nology purchased, improved, or otherwise financially supported under a loan under this section is used to exchange health information in a manner that, in accordance with law and standards (as adopted under section 300jj-14 of this title) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination; and<sup>1</sup>

(C) comply with such other requirements as the entity or the Secretary may require;

(D) include a plan on how health care providers involved intend to maintain and support the certified EHR technology over time;

(E) include a plan on how the health care providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian Tribe, respectively, may require; and

(5) agrees to provide matching funds in accordance with subsection (h).

**(c) Establishment of fund**

For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a “Loan Fund”) and comply with the other requirements contained in this section. A grant to an eligible entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this subchapter to be used for other purposes specified in this subchapter shall be deposited in any Loan Fund.

**(d) Strategic plan**

**(1) In general**

For purposes of subsection (b)(2), a strategic plan of an eligible entity under this subsection shall identify the intended uses of amounts available to the Loan Fund of such entity.

**(2) Contents**

A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

(A) A list of the projects to be assisted through the Loan Fund during such year.

(B) A description of the criteria and methods established for the distribution of funds from the Loan Fund during the year.

(C) A description of the financial status of the Loan Fund as of the date of submission of the plan.

(D) The short-term and long-term goals of the Loan Fund.

**(e) Use of funds**

Amounts deposited in a Loan Fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (c). Loans

<sup>1</sup> So in original. The word “and” probably should appear at end of subpar. (D).