

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;

(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 technology 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; and¹

(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 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.

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

(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 under this section may be used by a health care provider to—

(1) facilitate the purchase of certified EHR technology;

(2) enhance the utilization of certified EHR technology (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology);

(3) train personnel in the use of such technology; or

(4) improve the secure electronic exchange of health information.

(f) Types of assistance

Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this section may only be used for the following:

(1) To award loans that comply with the following:

(A) The interest rate for each loan shall not exceed the market interest rate.

(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

(3) As a source of revenue or security for the payment of principal and interest on revenue

or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

(4) To earn interest on the amounts deposited into the Loan Fund.

(5) To make reimbursements described in subsection (g)(4)(A).

(g) Administration of loan funds

(1) Combined financial administration

An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

(2) Cost of administering fund

Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this section to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after February 17, 2009.

(3) Guidance and regulations

The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this section as efficiently as possible in accordance with this subchapter and applicable State laws; and

(B) guidance to prevent waste, fraud, and abuse.

(4) Private sector contributions

(A) In general

A Loan Fund established under this section may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

(B) Availability of information

An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

(h) Matching requirements

(1) In general

The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in

cash to the costs of carrying out the activities for which the grant is awarded in an amount equal to not less than \$1 for each \$5 of Federal funds provided under the grant.

(2) Determination of amount of non-Federal contribution

In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A),² the National Coordinator may not include any amounts provided to the entity by the Federal Government.

(i) Effective date

The Secretary may not make an award under this section prior to January 1, 2010.

(July 1, 1944, ch. 373, title XXX, §3014, as added Pub. L. 111-5, div. A, title XIII, §13301, Feb. 17, 2009, 123 Stat. 253.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (b), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Social Security Act, referred to in subsec. (b)(4)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

§ 300jj-35. Demonstration program to integrate information technology into clinical education

(a) In general

The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating certified EHR technology in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

(b) Eligibility

To be eligible to receive a grant under subsection (a), an entity shall—

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

(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors, increase access to prevention, reduce chronic diseases, and enhance health care quality;

(3) be—

(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

(B) a graduate school of nursing or physician assistant studies;

(C) a consortium of two or more schools described in subparagraph (A) or (B); or

² So in original. Probably means “paragraph (1),”.