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 National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

(July 1, 1944, ch. 373, title XXX, § 3017, as added Pub. L. 111–5, div. A, title XIII, § 13301, Feb. 17, 2009, 123 Stat. 257.)

§ 300jj–38. Authorization for appropriations

For the purposes of carrying out this part, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013.

(July 1, 1944, ch. 373, title XXX, § 3018, as added Pub. L. 111–5, div. A, title XIII, § 13301, Feb. 17, 2009, 123 Stat. 258.)

PART C—OTHER PROVISIONS

§ 300jj–51. Health information technology enrollment standards and protocols

(a) In general

(1) Standards and protocols

Not later than 180 days after March 23, 2010,[1] the Secretary, in consultation with the HIT Advisory Committee, shall develop interoperable and secure standards and protocols that facilitate enrollment of individuals in Federal and State health and human services programs, as determined by the Secretary.

(2) Methods

The Secretary shall facilitate enrollment in such programs through methods determined appropriate by the Secretary, which shall include providing individuals and third parties authorized by such individuals and their designees notification of eligibility and verification of eligibility required under such programs.

(b) Content

The standards and protocols for electronic enrollment in the Federal and State programs described in subsection (a) shall allow for the following:

(1) Electronic matching against existing Federal and State data, including vital records, employment history, enrollment systems, tax records, and other data determined appropriate by the Secretary to serve as evidence of eligibility and in lieu of paper-based documentation.

(2) Simplification and submission of electronic documentation, digitization of documents, and systems verification of eligibility.

(3) Reuse of stored eligibility information (including documentation) to assist with retention of eligible individuals.

(4) Capability for individuals to apply, recertify and manage their eligibility information online, including at home, at points of service, and other community-based locations.

(5) Ability to expand the enrollment system to integrate new programs, rules, and functionalities, to operate at increased volume, and to apply streamlined verification and eligibility processes to other Federal and State programs, as appropriate.

(6) Notification of eligibility, recertification, and other needed communication regarding eligibility, which may include communication via email and cellular phones.

(7) Other functionalities necessary to provide eligibles with streamlined enrollment process.

(c) Approval and notification

With respect to any standard or protocol developed under subsection (a) that has been approved by the HIT Advisory Committee, the Secretary—

(1) shall notify States of such standards or protocols; and

(2) may require, as a condition of receiving Federal funds for the health information technology investments, that States or other entities incorporate such standards and protocols into such investments.

(d) Grants for implementation of appropriate enrollment HIT

(1) In general

The Secretary shall award grant[2] to eligible entities to develop new, and adapt existing, technology systems to implement the HIT enrollment standards and protocols developed under subsection (a) (referred to in this subsection as ''appropriate HIT technology'').

(2) Eligible entities

To be eligible for a grant under this subsection, an entity shall—

(A) be a State, political subdivision of a State, or a local governmental entity; and

(B) submit to the Secretary an application at such time, in such manner, and containing—

(i) a plan to adopt and implement appropriate enrollment technology that includes—

(I) proposed reduction in maintenance costs of technology systems;

(II) elimination or updating of legacy systems; and

(III) demonstrated collaboration with other entities that may receive a grant under this section that are located in the same State, political subdivision, or locality;

(ii) an assurance that the entity will share such appropriate enrollment technology in accordance with paragraph (4); and

(iii) such other information as the Secretary may require.

(3) Sharing

(A) In general

The Secretary shall ensure that appropriate enrollment HIT adopted under grants under this subsection is made available to other qualified State, qualified political subdivisions of a State, or other appropriate qualified entities (as described in subparagraph (B)) at no cost.

[1] See References in Text note below.

[2] So in original. Probably should be ''grants''.

(B) Qualified entities

The Secretary shall determine what entities are qualified to receive enrollment HIT under subparagraph (A), taking into consideration the recommendations of the HIT Advisory Committee.

(July 1, 1944, ch. 373, title XXX, § 3021, as added Pub. L. 111–148, title I, § 1561, Mar. 23, 2010, 124 Stat. 262; amended Pub. L. 114–255, div. A, title IV, § 4003(e)(2)(A)(ii), Dec. 13, 2016, 130 Stat. 1174.)

REFERENCES IN TEXT

March 23, 2010, referred to in subsec. (a)(1), was in the original ''the date of enactment of this title'', which was translated as meaning the date of enactment of Pub. L. 111–148, which enacted this part, to reflect the probable intent of Congress.

AMENDMENTS

2016—Subsecs. (a)(1), (c), (d)(3)(B). Pub. L. 114–255 substituted ''HIT Advisory Committee'' for ''HIT Policy Committee and the HIT Standards Committee''.

§ 300jj–52. Information blocking

(a) Definition

(1) In general

In this section, the term ''information blocking'' means a practice that—

(A) except as required by law or specified by the Secretary pursuant to rulemaking under paragraph (3), is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information; and

(B)(i) if conducted by a health information technology developer, exchange, or network, such developer, exchange, or network knows, or should know, that such practice is likely to interfere with, prevent, or materially discourage the access, exchange, or use of electronic health information; or

(ii) if conducted by a health care provider, such provider knows that such practice is unreasonable and is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information.

(2) Practices described

The information blocking practices described in paragraph (1) may include—

(A) practices that restrict authorized access, exchange, or use under applicable State or Federal law of such information for treatment and other permitted purposes under such applicable law, including transitions between certified health information technologies;

(B) implementing health information technology in nonstandard ways that are likely to substantially increase the complexity or burden of accessing, exchanging, or using electronic health information; and

(C) implementing health information technology in ways that are likely to—

(i) restrict the access, exchange, or use of electronic health information with respect to exporting complete information sets or in transitioning between health information technology systems; or

(ii) lead to fraud, waste, or abuse, or impede innovations and advancements in health information access, exchange, and use, including care delivery enabled by health information technology.

(3) Rulemaking

The Secretary, through rulemaking, shall identify reasonable and necessary activities that do not constitute information blocking for purposes of paragraph (1).

(4) No enforcement before exception identified

The term ''information blocking'' does not include any practice or conduct occurring prior to the date that is 30 days after December 13, 2016.

(5) Consultation

The Secretary may consult with the Federal Trade Commission in promulgating regulations under this subsection, to the extent that such regulations define practices that are necessary to promote competition and consumer welfare.

(6) Application

The term ''information blocking'', with respect to an individual or entity, shall not include an act or practice other than an act or practice committed by such individual or entity.

(7) Clarification

In carrying out this section, the Secretary shall ensure that health care providers are not penalized for the failure of developers of health information technology or other entities offering health information technology to such providers to ensure that such technology meets the requirements to be certified under this subchapter.

(b) Inspector General authority

(1) In general

The inspector general of the Department of Health and Human Services (referred to in this section as the ''Inspector General'') may investigate any claim that—

(A) a health information technology developer of certified health information technology or other entity offering certified health information technology—

(i) submitted a false attestation under section 300jj–11(c)(5)(D)(vii) of this title; or

(ii) engaged in information blocking;

(B) a health care provider engaged in information blocking; or

(C) a health information exchange or network engaged in information blocking.

(2) Penalties

(A) Developers, networks, and exchanges

Any individual or entity described in subparagraph (A) or (C) of paragraph (1) that the Inspector General, following an investigation conducted under this subsection, determines to have committed information blocking shall be subject to a civil monetary penalty determined by the Secretary for all such violations identified through such investigation, which may not exceed $1,000,000