

Executive Order Promotes Interoperable Electronic Health Records

By Rebecca L. Williams and Allen E. Briskin
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On Aug. 22, 2006 the president signed Executive Order entitled “Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs.” This Executive Order furthers the federal push towards interoperable electronic health records, and their accompanying promotion of transparency relating to health care quality and price.

In summary, beginning Jan.1, 2007, federal agencies that administer or sponsor a federal health care program are directed to:

- Utilize, where available, health information technology systems and products that meet recognized interoperability standards (as each agency implements, acquires, or upgrades its health information technology systems that are used for the direct exchange of health information between agencies and with non-federal entities).
- Mandate agreements with health care providers, health plans, and/or health insurance issuers that each such entity when acquiring or upgrading health information technology systems do so in a manner that, where available, meet recognized interoperability standards.
- Implement programs measuring the quality of services supplied by health care providers to the beneficiaries or enrollees of a federal health care program, which at a minimum include participating in the aggregation of claims and other appropriate data for the purposes of quality measurement. Such programs are to be based upon standards established by multi-stakeholder entities identified by the Secretary of the Department of Health and Human Services. Each agency is to collaborate with other agencies in developing its quality measurements.
- Make available to beneficiaries and enrollees of a federal health care program – at the option of the agency, to the public – the prices that it, its health insurance issuers, or its health insurance plan pay for procedures to providers in the health care program.
- Develop and identify, for beneficiaries, enrollees, and providers, approaches that encourage and facilitate the provision and receipt of high quality and efficient health care.

“Federal health care programs” mean the Federal Employees Health Benefit Program, the Medicare program, programs operated directly by the Indian Health Service, the TRICARE program for the Department of Defense and other uniformed services, and the health care program operated by the Department of Veterans’ Affairs. It specifically does not include state operated or funded federally subsidized programs such as Medicaid, the state Children’s Health Insurance Program, or services provided to Department of Veterans’ Affairs beneficiaries under 38 U.S.C. § 1703.

Recognized interoperability standards will be those standards recognized by the Secretary of Health and Human Services as of the date of the implementation, acquisition, or upgrade of health information technology systems subject to the Executive Order. The definition of interoperability is the same as being used in the final regulations creating a Stark Law exception and Anti-kickback safe harbor for electronic health records. This could prove to disadvantage organizations with long-standing, individually developed electronic health records.

Of note, this Executive Order does not request, appropriate, or rely upon any additional federal resources. Actions directed under this order are to be carried out subject to the availability of funding.

This Executive Order seems to encourage the adoption of health information technology standards. The president indicated that this was a first step in a larger plan to provide open health quality and price information for consumers.

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