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M E M O R A N D U M

TO: Senator Ann Cummings, Chair,
Representative Martha Heath, Vice Chair, and
Members of the Legislative Joint Fiscal Committee

CC: Jeb Spaulding, Secretary, Agency of Administration
Doug Racine, Secretary, Agency of Human Services
Susan Besio, Commissioner, Department of Vermont Health Access
Robin Lunge, Director of Health Care Reform

FROM: Hunt Blair, Director, Division of Health Reform & State HIT Coordinator

DATE: June 30, 2011

RE: Act 63, Sec. G.100: Report on the Health Care Information Technology Reinvestment Fee

On behalf of Secretary Spaulding, I am pleased to provide the Joint Fiscal Committee with this brief Report on the status of the Health Information Technology (HIT) Fund.

The digitization and exchange of clinical health information is fundamental to improved health care quality, safety, efficiency, and effectiveness. The HIT Fund, originally enacted in 2008 as 8 V.S.A. § 4089k, was established in recognition of the critical need to support development of the HIT infrastructure required to support Vermont's health reform initiatives.

The Fund collects "0.199 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year." As enacted, the Fund sunsets on July 1, 2015. Section 4089k(e), as amended by Act 63 of 2011, requires the Secretary of Administration to "assess the adequacy of funding and make recommendations to the Joint Fiscal Committee concerning the appropriateness of the duration of the health care information technology reinvestment fee" in a Report due June 30, 2011.

The activity of the Fund is detailed below, but the recommendations can be easily summarized. The Vermont HIT Fund represents the best state policy in the nation for fairly supporting the distributed costs of Health Information Technology (HIT) and Health Information Exchange (HIE) and should be continued at least through 2015. It is seen as a model for the nation, with other states actively considering legislation to establish similar assessments.

Enactment of the Vermont Health IT Fund happily anticipated (albeit inadvertently) the direction of federal HIT policy. Less than a year after passage of the Vermont's HIT Fund, the American Recovery &

Reinvestment Act and its HITECH Act subsection created unprecedented federal funding for the support of HIT and HIE, including substantial incentives for the adoption and meaningful use of Electronic Health Record (EHR) systems.

The new ARRA funding resources are critically important and valuable; however, those federal investments contain requirements for state matches for grants, cooperative agreements, and other HIT-HIE funding opportunities. Vermont is currently unique among the 50 states in having access to non-General Fund resources to supply those matches, thanks to the Health IT Fund.

As importantly, the federal HIT resources limit funding of EHR systems to support for hospitals, physicians, and certain other eligible professionals. Excluded are: mental health and substance abuse providers, long term care providers, home health, and many other non-physician / non-hospital professionals. Here too, Vermont is uniquely well positioned to utilize the Fund to support HIT and HIE for the full continuum of health care providers, all of whom are essential to our delivery system transformation.

HIT is a critical enabler of this transformation; the State seeks to wire the "neural network" of its health care system to provide real time, and close-to-real time, clinical and financial information for the management of the health care system *as a system*. The goal is to create a fully integrated digital infrastructure for a learning health system to improve care, improve health, and reduce costs. Without HIT, health reform will not succeed.

Health IT Fund Income & Expenses to date:

SFY	Income	Expenditures	Balance
SFY 09*	1,725,506	1,404,447	321,059
SFY 10	2,462,828	127,389	2,656,498
SFY 11**	2,872,581	549,723	4,979,356

* - Q2-Q3-Q4 only

** - as of 6/28/11

Why so few expenditures to date? Primarily because the federal grant resources for support of HIE have been so generous (but time limited), the State has conserved HIT Fund resources that would otherwise have gone to support VITL (Vermont Information Technology Leaders, Inc.), operator of the statewide Vermont Health Information Exchange (VHIE) network, banking current HIT Fund revenue for future years when federal HIE grants end.

In addition, DVHA did not provide significant grant funding to other organizations and providers in SFY11 because they have not been ready to utilize HIT funding effectively. Non-hospital and non-physician providers and organizations are still developing their HIT deployment and implementation strategies. In addition, the non-medical EHR market is still maturing.

Many of the EHR systems designed for mental health, home health, long term care, and other "full spectrum providers" do not yet meet federal standards for certification and interoperability (e.g., the capacity to "talk" to other EHR systems). Rather than "spend money for the sake of spending money," as State HIT Coordinator, I have worked closely with a broad group of stakeholders to cultivate readiness in anticipation of providing HIT Fund grants when those expenditures could be fully justified and executed in a timely fashion. Because of the work over the past year with Vermont's providers, the time for those expenditures is imminent, as the table of projected SFY12 expenditures shown on the next page details.

Projected SFY 12 Health IT Fund Income & Expenses:

SFY	Income	Expenditures		Balance
SFY 12	3,000,000			7,979,356
		EHR Incentive Program Operations / Staffing Match	250,000	
		Provider Directory, Other AHS HIT-HIE Infrastructure	250,000	
		HIT & Health Reform Portfolio Planning & Management	200,000	
		Match for GC to support Blueprint IT and VITL	1,585,659	
		Match for federal ONC grant to VITL	157,865	
		Match for Health Center Controlled Network HRSA grant to Bi-State	452,143	
		SASH HIT Staff	97,980	
		Council of Developmental & Mental Health Services Planning grant	100,000	
			3,093,647	
		Full Spectrum Provider EHR grant program, other health reform IT	4,000,000	
		Total SFY12 *Projected* Expenses	7,093,647	885,709

As shown above, HIT expenditures will ramp up significantly in the upcoming State Fiscal Year:

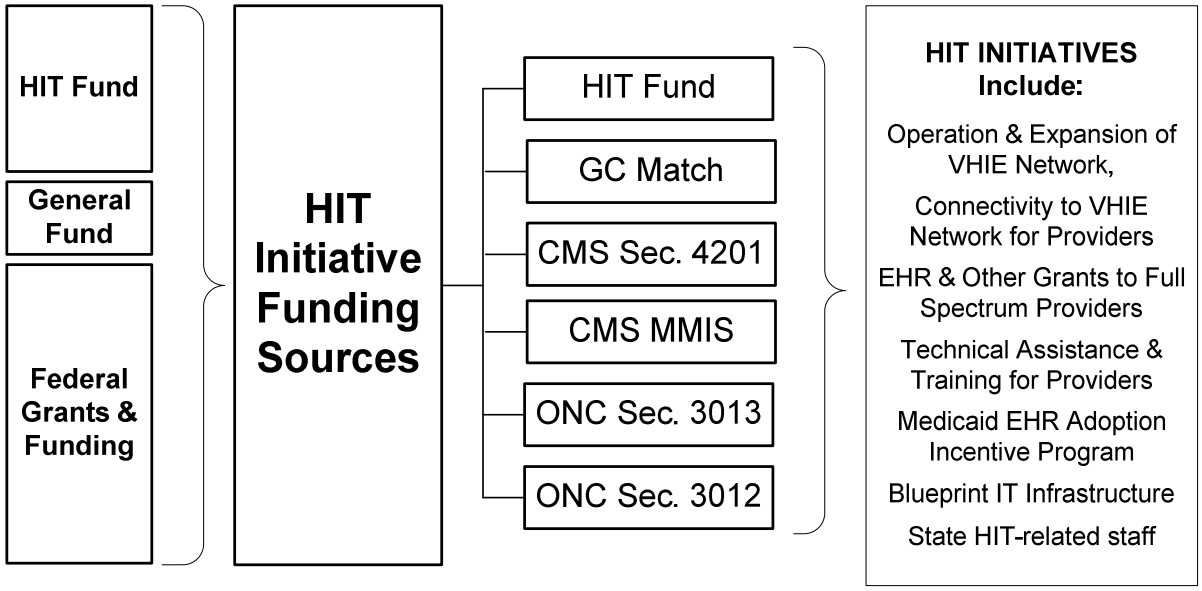
- $250,000 to support the Medicaid EHR Incentive Program (which has 100% federal funds for the Incentive payments themselves) but which has 90/10 funding for administration of the Program, including staffing, processing of payments, audits and other compliance / program integrity functions.
- $250,000 to support HIT-HIE related development of the AHS Enterprise infrastructure, including development and implementation of a State Provider Directory that will be utilized by VITL for the HIE, as well as by DVHA for both the Health Benefit Exchange and the Medicaid Enterprise.
- $200,000 for Health Reform IT-related planning and development efforts in support of Section 10 of Act 48.
- $1.5M not otherwise federally matched HIT funds which can be leveraged to $3.5M through the GC MCO investment mechanism. These funds then support the Blueprint IT infrastructure (the Covisint / DocSite clinical registry and data repository) and funding to VITL to support interface development between Blueprint site EHR systems and Covisint / DocSite and other services, significantly extending the impact of HIT Fund resources.
- $157,865 to VITL as state match for their federal grant from the Office of the National Coordinator of HIT (ONC) to operate the Regional Extension Center, which provides technical assistance to physicians and Critical Access Hospitals to implement and meaningfully use EHR systems.
- $452,143 to Bi-State Primary Care Association as state match for their federal grant from the Health Resources & Services Administration (HRSA) which funds interfaces to VITL and Blueprint connectivity for Vermont's network of Community Health Centers.
- $97,980 to Cathedral Square Corporation to support HIT staffing for the SASH (Support & Services at Home) program, extending the Blueprint for Health to serve Vermonters at and nearby non-profit and public housing sites.
- $100,000 for an HIT planning grant for the development of EHR connectivity for the Designated Agencies that is expected to result in a proposal for an additional funding request.

In addition, as noted above, the State is poised to fund significant investments in EHR and other HIT-HIE connectivity projects for the "full spectrum providers" not eligible for the federal EHR Incentive Program. This funding will support new EHR systems, EHR upgrades, HIE interfaces for connectivity and interoperability with other HIT systems, such as the Blueprint IT infrastructure. The Designated Agencies, as well as private mental health & substance abuse providers, nursing homes, residential care homes, adult day

care, the Area Agencies on Aging, home health, and other community-based partners in health care provision and the care management and care coordination efforts of the Blueprint will be targeted for these grant opportunities. This resource will also be available to provide small grants to Blueprint communities to assist with HIT implementation not paid through other sources.

It should also be noted that the federal funding leveraged through the HIT Fund matches includes just over $11 million dollars (over four years) from the ONC for the State HIE Cooperative Agreement and the Regional Extension Center Cooperative Agreement, and an anticipated $7,000,000 from CMS in SFY 12 alone.

In conclusion, as this diagram illustrates, the HIT Fund is a lynch-pin to leveraging substantial HIT resources in support of Vermont's health reform initiatives to improve quality and reduce costs, should be continued at least through 2015, and should potentially be extended beyond its current sunset date.



8 V.S.A. § 4089k. Health care information technology reinvestment fee

(a)(1) Beginning October 1, 2009 and annually thereafter, each health insurer shall pay a fee into the health IT fund established in 32 V.S.A. § 10301 in the amount of 0.199 of one percent of all health insurance claims paid by the health insurer for its Vermont members in the previous fiscal year ending June 30. The annual fee shall be paid in quarterly installments on October 1, January 1, April 1, and July 1.

(2) On or before September 1, 2009 and annually thereafter, the secretary of administration, in consultation with the commissioner of banking, insurance, securities, and health care administration, shall publish a list of health insurers subject to the fee imposed by this section, together with the paid claims amounts attributable to each health insurer for the previous fiscal year. The costs of the department of banking, insurance, securities, and health care administration in calculating the annual claims data shall be paid from the Vermont health IT fund.

(b) It is the intent of the general assembly that all health insurers shall contribute equitably to the health IT fund established in 32 V.S.A. § 10301. In the event that the fee established in subsection (a) of this section is found not to be enforceable as applied to third party administrators or other entities, the fee amounts owed by all other health insurers shall remain at existing levels and the general assembly shall consider alternative funding mechanisms that would be enforceable as to all health insurers.

(c) As used in this section:

(1) "Health insurance" means any group or individual health care benefit policy, contract, or other health benefit plan offered, issued, renewed, or administered by any health insurer, including any health care benefit plan offered, issued, renewed, or administered by any health insurance company, any nonprofit hospital and medical service corporation, or any managed care organization as defined in 18 V.S.A. § 9402. The term includes comprehensive major medical policies, contracts, or plans and Medicare supplemental policies, contracts, or plans, but does not include Medicaid, VHAP, or any other state health care assistance program financed in whole or in part through a federal program, unless authorized by federal law and approved by the general assembly. The term does not include policies issued for specified disease, accident, injury, hospital indemnity, dental care, long-term care, disability income, or other limited benefit health insurance policies.

(2) "Health insurer" means any person who offers, issues, renews or administers a health insurance policy, contract, or other health benefit plan in this state, and includes third party administrators or pharmacy benefit managers who provide administrative services only for a health benefit plan offering coverage in this state. The term does not include a third party administrator or pharmacy benefit manager to the extent that a health insurer has paid the fee which would otherwise be imposed in connection with health care claims administered by the third party administrator or pharmacy benefit manager. The term also does not include a health insurer with a monthly average of fewer than 200 Vermont insured lives.

(d)(1) The secretary of administration may adopt such rules and issue such orders as are necessary to carry out the purposes of this section and 32 V.S.A. § 10301, including those related to administration of the health IT-fund and collection of the fee established in subsection (a) of this section.

(2) If any health insurer fails to pay the fee established in subsection (a) of this section within 45 days after notice from the secretary of administration of the amount due, the secretary of administration, or his or her designee, shall notify the commissioner of banking, insurance, securities, and health care administration of

the failure to pay. In addition to any other remedy or sanction provided for by law, if the commissioner finds, after notice and an opportunity to be heard, that the health insurer has violated this section or any rule or order adopted or issued pursuant to this section, the commissioner may take any one or more of the following actions:

(A) Assess an administrative penalty on the health insurer of not more than $1,000.00 for each violation and not more than $10,000.00 for each willful violation;

(B) Order the health insurer to cease and desist in further violations; or

(C) Order the health insurer to remediate the violation, including the payment of fees in arrears and payment of interest on fees in arrears at the rate of 12 percent per annum.

(e) No later than June 30, 2011, the secretary of administration, or his or her designee, shall assess the adequacy of funding and make recommendations to the commission joint fiscal committee concerning the appropriateness of the duration of the health care information technology reinvestment fee. (Added 2007, No. 192 (Adj. Sess.), § 7.005; amended 2009, No. 61, § 18; 2009, No. 137 (Adj. Sess.), § 27, eff. May 29, 2010.)