

112TH CONGRESS
2D SESSION

S. 3539

To encourage the adoption and use of certified electronic health record technology by safety net providers and clinics.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To encourage the adoption and use of certified electronic health record technology by safety net providers and clinics.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicaid Information
5 Technology to Enhance Community Health Act of 2012”
6 or the “MITECH Act”.

1 **SEC. 2. INCENTIVES FOR ADOPTION AND USE OF EHR**
 2 **TECHNOLOGY BY SAFETY NET CLINICS AND**
 3 **PROVIDERS.**

4 Section 1903(t) of the Social Security Act (42 U.S.C.
 5 1396b(t)) is amended—

6 (1) in paragraph (2)—

7 (A) in subparagraph (A)—

8 (i) in clause (i), by inserting “or
 9 QSNC-based” after “hospital-based”;

10 (ii) in clause (ii)—

11 (I) by inserting “or QSNC-
 12 based” after “hospital-based”; and

13 (II) by striking “and” at the end
 14 and inserting “or”; and

15 (iii) in clause (iii), by striking “who
 16 practices predominantly in a Federally
 17 qualified health center or rural health clin-
 18 ic” and inserting “subject to paragraph
 19 (11)(C), who practices predominantly in a
 20 Federally qualified health center, rural
 21 health clinic, or qualified safety net clinic”;
 22 and

23 (B) in subparagraph (B)—

24 (i) in clause (i), by striking “or”;

25 (ii) in clause (ii), by striking the pe-
 26 riod at the end and inserting “, or”; and

1 (iii) by adding at the end the fol-
 2 lowing new clause:

3 “(iii) subject to paragraph (11), a qualified
 4 safety net clinic (as defined in paragraph (3)(G)).”;
 5 (2) in paragraph (3)—

6 (A) in subparagraph (B)(v), by striking
 7 “rural health clinic” and all that follows
 8 through the period and inserting “rural health
 9 clinic, Federally qualified health center, or
 10 qualified safety net clinic that is led by a physi-
 11 cian assistant.”; and

12 (B) by adding at the end the following new
 13 subparagraphs:

14 “(G) The term ‘qualified safety net clinic’
 15 means a clinic or network of clinics that is operated
 16 by a private non-profit or public entity and that has
 17 at least 30 percent of its patient volume (as esti-
 18 mated in accordance with a methodology established
 19 by the Secretary) attributable to needy individuals
 20 (as defined in subparagraph (F)).

21 “(H) The term ‘QSNC-based’ means, with re-
 22 spect to an eligible professional, an individual who
 23 furnishes substantially all of their professional serv-
 24 ices in a qualified safety net clinic and through the
 25 use of the facilities and equipment, including quali-

1 fied electronic health records, of the clinic. The de-
 2 termination of whether an eligible professional is a
 3 QSNC-based eligible professional shall be made on
 4 the basis of the site of service (as defined by the
 5 Secretary) and without regard to any employment or
 6 billing arrangement between the eligible professional
 7 and any other provider.”;

8 (3) in paragraph (5)—

9 (A) in subparagraph (A), by inserting
 10 “clause (i) or (ii) of” before “paragraph
 11 (2)(B)”;

12 (B) by adding at the end the following new
 13 subparagraph:

14 “(E) For purposes of payments described in
 15 paragraph (1)(B) to a Medicaid provider described
 16 in paragraph (2)(B)(iii), the Secretary shall estab-
 17 lish a methodology for determining the maximum
 18 amount of payment permitted for each such pro-
 19 vider.”;

20 (4) by adding at the end the following new
 21 paragraph:

22 “(11)(A) Not later than January 1, 2015, the Sec-
 23 retary, in consultation with States and other relevant
 24 stakeholders, shall promulgate regulations to establish a
 25 procedure through which a qualified safety net clinic may

1 demonstrate meaningful use of certified EHR technology
2 by such clinic for purposes of satisfying the requirement
3 described in paragraph (6)(C)(i)(II).

4 “(B) A qualified safety net clinic shall not be eligible
5 to receive payments described in paragraph (1)(B) before
6 the date on which the Secretary establishes the procedure
7 described in subparagraph (A). On and after that date,
8 a qualified safety net clinic may receive such payments
9 if the qualified safety net clinic notifies the Secretary that
10 the qualified safety net clinic elects to receive such pay-
11 ments in lieu of the Secretary making payments described
12 in paragraph (1)(A) to the eligible professionals who prac-
13 tice predominately in the qualified safety net clinic.

14 “(C) On or after the date that the Secretary estab-
15 lishes the procedure described in subparagraph (A), an eli-
16 gible professional who practices predominately in a quali-
17 fied safety net clinic, as described in paragraph (2)(A)(iii),
18 shall not be eligible to receive payments described in para-
19 graph (1)(A) if the qualified safety net clinic receives pay-
20 ments described in paragraph (1)(B).”.

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