

114TH CONGRESS
1ST SESSION

S. 1347

AN ACT

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Electronic Health
3 Fairness Act of 2015”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Ambulatory surgery centers were not cov-
7 ered under the provisions of the HITECH Act of
8 2009, which created certification standards and in-
9 centives for adopting electronic health record (EHR)
10 technology in the physician office and hospital set-
11 tings.

12 (2) The Centers for Medicare & Medicaid Serv-
13 ices (CMS) defines a meaningful EHR user as an el-
14 igible professional having 50 percent or more of the
15 professional’s outpatient encounters at practices or
16 locations equipped with certified EHR technology.

17 (3) Physicians with patient encounters in an
18 ambulatory surgical center are at a disadvantage
19 when attempting to meet meaningful use require-
20 ments because there currently is not certified EHR
21 technology for such centers.

22 (4) Until such time as EHR technology is cer-
23 tified specifically for use in the ambulatory surgical
24 centers, patient encounters that occur in such a cen-
25 ter should not be used when calculating whether an
26 eligible professional meets meaningful use require-

1 ments, unless an eligible professional elects to in-
2 clude those encounters.

3 **SEC. 3. TREATMENT OF PATIENT ENCOUNTERS IN AMBULA-**
4 **TORY SURGICAL CENTERS IN DETERMINING**
5 **MEANINGFUL EHR USE.**

6 Section 1848(o)(2) of the Social Security Act (42
7 U.S.C. 1395w-4(o)(2)) is amended by adding at the end
8 of the following new subparagraph:

9 “(E) TREATMENT OF PATIENT ENCOUN-
10 TERS AT AMBULATORY SURGICAL CENTERS.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), for a payment year after 2015, any
13 patient encounter of an eligible profes-
14 sional occurring at an ambulatory surgical
15 center (described in section 1833(i)(1)(A))
16 shall not be treated as a patient encounter
17 in determining whether an eligible profes-
18 sional qualifies as a meaningful EHR user.
19 Notwithstanding any other provision of
20 law, the Secretary may implement this
21 clause by program instruction or otherwise.

22 “(ii) SUNSET.—Clause (i) shall no
23 longer apply as of the first payment year
24 that begins more than 3 years after the
25 date the Secretary determines, through no-

1 tice and comment rulemaking, that cer-
2 tified EHR technology is applicable to the
3 ambulatory surgical center setting.”.

Passed the Senate August 5, 2015.

Attest:

Secretary.

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