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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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Health Fairness Act of 2015''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Ambulatory surgery centers were not covered under the provisions of the HITECH Act of 2009, which created certification standards and incentives for adopting electronic health record (EHR) technology in the physician office and hospital settings.

(2) The Centers for Medicare & Medicaid Services (CMS) defines a meaningful EHR user as an eligible professional having 50 percent or more of the professional's outpatient encounters at practices or locations equipped with certified EHR technology.

(3) Physicians with patient encounters in an ambulatory surgical center are at a disadvantage when attempting to meet meaningful use requirements because there currently is not certified EHR technology for such centers.

(4) Until such time as EHR technology is certified specifically for use in the ambulatory surgical centers, patient encounters that occur in such a center should not be used when calculating whether an eligible professional meets meaningful use require-

ments, unless an eligible professional elects to include those encounters.

SEC. 3. TREATMENT OF PATIENT ENCOUNTERS IN AMBULATORY SURGICAL CENTERS IN DETERMINING MEANINGFUL EHR USE.

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

"(E) TREATMENT OF PATIENT ENCOUNTERS AT AMBULATORY SURGICAL CENTERS.—

"(i) IN GENERAL.—Subject to clause (ii), for a payment year after 2015, any patient encounter of an eligible professional occurring at an ambulatory surgical center (described in section 1833(i)(1)(A)) shall not be treated as a patient encounter in determining whether an eligible professional qualifies as a meaningful EHR user. Notwithstanding any other provision of law, the Secretary may implement this clause by program instruction or otherwise.

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

tice and comment rulemaking, that certified EHR technology is applicable to the ambulatory surgical center setting.''.

Passed the Senate August 5, 2015.

Attest:

Secretary.

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