

110TH CONGRESS
1ST SESSION

S. 1490

To provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2007

Mr. CARPER (for himself and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employees
5 Electronic Personal Health Records Act of 2007”.

1 **SEC. 2. ELECTRONIC PERSONAL HEALTH RECORDS FOR**
2 **FEDERAL EMPLOYEE HEALTH BENEFITS**
3 **PLANS.**

4 (a) CONTRACT REQUIREMENT.—Section 8902 of title
5 5, United States Code, is amended by adding at the end
6 the following:

7 “(p) Each contract under this chapter shall require
8 the carrier to provide for the establishment and mainte-
9 nance of electronic personal health records in accordance
10 with section 8915.”.

11 (b) ELECTRONIC PERSONAL HEALTH RECORDS.—
12 Chapter 89 of title 5, United States Code, is amended by
13 adding after section 8914 the following:

14 **“§ 8915. Electronic personal health records**

15 “(a) In this section, the term—

16 “(1) ‘claims data’ means—

17 “(A) a comprehensive record of health care
18 services provided to an individual, including
19 prescriptions; and

20 “(B) contact information for providers of
21 health care services; and

22 “(2) ‘standard electronic format’ means a for-
23 mat that—

24 “(A) uses open electronic standards;

1 “(B) enables health information technology
2 to be used for the collection of clinically specific
3 data;

4 “(C) promotes the interoperability of
5 health care information across health care set-
6 tings, including reporting under this section
7 and to other Federal agencies;

8 “(D) facilitates clinical decision support;

9 “(E) is useful for diagnosis and treatment
10 and is understandable for the individual or fam-
11 ily member; and

12 “(F) is based on the Federal messaging
13 and health vocabulary standard endorsed by—

14 “(i) the Office of the National Coordi-
15 nator for Health Information Technology;

16 “(ii) the American Health Informa-
17 tion Community; or

18 “(iii) the Secretary of Health and
19 Human Services.

20 “(b)(1) Each carrier entering into a contract for a
21 health benefits plan under section 8915 shall provide for
22 the establishment and maintenance of electronic personal
23 health records for each individual and family member en-
24 rolled in that health benefits plan in accordance with this
25 section.

1 “(2) In the administration of this section, the Office
2 of Personnel Management—

3 “(A) shall ensure that each individual and fam-
4 ily member is provided—

5 “(i) timely notice of the establishment and
6 maintenance of electronic personal health
7 records; and

8 “(ii) an opportunity to file an election at
9 any time to—

10 “(I) not participate in the establish-
11 ment or maintenance of an electronic per-
12 sonal health record for that individual or
13 family member; and

14 “(II) in the case of an electronic per-
15 sonal health record that is established
16 under this section, terminate that elec-
17 tronic personal health record;

18 “(B) shall ensure that each electronic personal
19 health record shall—

20 “(i) be based on standard electronic for-
21 mats;

22 “(ii) be available for electronic access
23 through the Internet for the use of the indi-
24 vidual or family member to whom the record
25 applies;

1 “(iii) enable the individual or family mem-
2 ber to—

3 “(I) share any contents of the elec-
4 tronic personal health record through
5 transmission in standard electronic format,
6 fax transmission, or other additional
7 means to providers of health care services
8 or other persons;

9 “(II) copy or print any contents of the
10 electronic personal health record; and

11 “(III) add supplementary health infor-
12 mation, such as information relating to—

13 “(aa) personal, medical, and
14 emergency contacts;

15 “(bb) laboratory tests;

16 “(cc) social history;

17 “(dd) health conditions;

18 “(ee) allergies;

19 “(ff) dental services;

20 “(gg) immunizations;

21 “(hh) prescriptions;

22 “(ii) family health history;

23 “(jj) alternative treatments;

24 “(kk) appointments; and

- 1 “(II) any additional information
2 as needed;
- 3 “(iv) contain—
- 4 “(I) to the extent feasible, claims data
5 from—
- 6 “(aa) providers of health care
7 services that participate in health ben-
8 efits plans under this chapter;
- 9 “(bb) other providers of health
10 care services; and
- 11 “(cc) other health benefits plans
12 in which the individual or family
13 members have participated;
- 14 “(II) to the extent feasible, clinical
15 care, pharmaceutical, and laboratory
16 records; and
- 17 “(III) the name of the source for each
18 item of health information;
- 19 “(v) authenticate the identity of each indi-
20 vidual upon accessing the electronic personal
21 health record; and
- 22 “(vi) contain an audit trail to list the iden-
23 tity of individuals who access the electronic per-
24 sonal health record;

1 “(C) shall ensure that the individual or family
2 member may designate—

3 “(i) any other individual to access and ex-
4 ercise control over the sharing of the electronic
5 personal health record; and

6 “(ii) any other individual to access the
7 electronic personal health record in an emer-
8 gency;

9 “(D) shall require each health benefits plan to
10 comply with all privacy and security regulations pro-
11 mulgated under section 246(c) of the Health Insur-
12 ance Portability and Accountability Act of 1996 (42
13 U.S.C. 1320d–2) and other relevant laws relating to
14 privacy and security;

15 “(E) shall require each carrier that enters into
16 a contract for a health benefits plan to provide for
17 the electronic transfer of the contents of an elec-
18 tronic personal health record to another electronic
19 personal health record under a different health bene-
20 fits plan maintained under this section or a similar
21 record not maintained under this section if—

22 “(i) coverage in a health benefits plan
23 under this chapter for an individual or family
24 member terminates; and

1 “(ii) that individual or family member
2 elects such a transfer;

3 “(F) shall require each carrier to provide for
4 education, awareness, and training on electronic per-
5 sonal health records for individuals and family mem-
6 bers enrolled in health benefits plans; and

7 “(G) may require each carrier to provide for an
8 electronic personal health record to be made avail-
9 able for electronic access, other than through the
10 Internet, for the use of the individual or family
11 member to whom the record applies, if that indi-
12 vidual or family member requests such access.

13 “(3) Nothing in paragraph (2)(C) shall be construed
14 to provide any rights additional to the rights provided
15 under the privacy and security regulations promulgated
16 under section 246(c) of the Health Insurance Portability
17 and Accountability Act of 1996 (42 U.S.C. 1320d–2) and
18 other relevant laws relating to privacy and security.”.

19 (c) TECHNICAL AND CONFORMING AMENDMENT.—
20 The table of sections for chapter 89 of title 5, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

“Sec. 8915. Electronic personal health records.”.

1 **SEC. 3. EFFECTIVE DATES AND APPLICATION.**

2 (a) IN GENERAL.—Except as provided under sub-
3 section (b), the amendments made by this Act shall take
4 effect 30 days after the date of enactment of this Act.

5 (b) ESTABLISHMENT AND MAINTENANCE OF ELEC-
6 TRONIC PERSONAL HEALTH RECORDS.—The requirement
7 for the establishment and maintenance of electronic per-
8 sonal health records under sections 8902(p) and 8915 of
9 title 5, United States Code (as added by this Act), shall
10 apply with respect to contracts for health benefits plans
11 under chapter 89 of that title which take effect on and
12 after January of the earlier of—

13 (1) the first calendar year following 2 years
14 after the date of enactment of this Act; or

15 (2) any calendar year determined by the Office
16 of Personnel Management.

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