H. R. 3705

To amend title XVIII of the Social Security Act to establish appropriateness requirements for certain advanced diagnostic imaging services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2013

Mr. PAULSEN (for himself and Mr. MATHESON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend title XVIII of the Social Security Act to establish appropriateness requirements for certain advanced diagnostic imaging services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Excellence in Diagnostic Imaging Utilization Act of 2013”.
SEC. 2. APPROPRIATENESS REQUIREMENTS FOR CERTAIN
ADVANCED DIAGNOSTIC IMAGING SERVICES.

(a) In General.—Section 1834 of the Social Secu-

rity Act (42 U.S.C. 1395m) is amended by adding at the

end the following new subsection:

“(p) Appropriateness Requirements for Cer-
tain Advanced Diagnostic Imaging Services.—

“(1) In general.—

“(A) In general.—Beginning with Janu-

ary 1, 2015, with respect to applicable ad-

vanced diagnostic imaging services furnished in

an outpatient setting and for which payment is

made under—

“(i) the technical or professional com-

ponent of the fee schedule established

under section 1848(b); or

“(ii) the prospective payment system

for hospital outpatient department services

under section 1833(t),

payment for such services may only be made if

the requirements of this subsection are met.

“(B) Applicable Advanced Diagnostic

Imaging Services.—For purposes of this sub-

section, the term ‘applicable advanced diag-

nostic imaging services’ means advanced diag-

nostic imaging services (as defined in subsection
(e)(1)(B)) for which defined appropriate use
criteria (and related guidelines) have been—

“(i) developed or endorsed by national
professional medical specialty societies; and

“(ii) selected by the Secretary for pur-
poses of this subsection in consultation
with national professional medical specialty
societies and other stakeholders.

“(C) Construction in instances of
multiple applicable appropriate use cri-
teria.—Nothing in this subsection shall be
construed as preventing the Secretary, in the
case that there are multiple appropriate use cri-
teria (and related guidelines) that are applica-
table to a particular advanced diagnostic imaging
service (or a specific set of clinical indications),
from selecting more than one criterion (or more
than one guideline) under subparagraph
(B)(ii)(II).

“(D) Periodic revision.—The Secretary
may periodically revise the list of applicable ad-
vanced diagnostic imaging services under this
paragraph.
“(2) Development and maintenance of imaging appropriateness registries by medical specialty societies.—

“(A) In general.—Not later than April 1, 2014, the Secretary shall qualify registries that are developed and maintained by national professional medical specialty societies.

“(B) Requirements.—Registries qualified under subparagraph (A) shall meet the following requirements:

“(i) The registry shall document—

“(I) the use of an approved electronic clinical decision support tool (as described in paragraph (3)) in connection with the ordering and performance of an applicable advanced diagnostic imaging service;

“(II) whether orders for applicable advanced diagnostic imaging services were consistent with related appropriate use criteria (including an appropriateness score where available from the approved electronic clinical decision support tool);
“(III) the clinical indication for
the applicable advanced diagnostic im-
ing services ordered; and
“(IV) in situations where an
order for an applicable advanced diag-
nostic imaging service is not con-
sistent with the related appropriate
use criteria, the rationale of the order-
ing or furnishing supplier or provider
(as the case may be) for such incon-
sistency.
“(ii) The registry shall be structured
to allow access to data for future research,
provide a centralized analysis of the data
submitted, including the impact on utiliza-
tion changes for applicable advanced diag-
nostic services, and provide connections
with existing medical society registries.
“(iii) The registry shall generate re-
ports on at least a quarterly basis pro-
viding feedback to suppliers and providers
that order and furnish applicable advanced
diagnostic imaging services on the ordering
activity of the supplier or provider and re-
lated appropriate use criteria metrics.
“(C) Multiple Qualified Registries.—

In the case where more than one registry is developed under this paragraph, the Secretary shall ensure that each registry receives standardized data such that the data may be combined and compared across registries.

“(D) Periodic Updating.—The Secretary shall periodically update the list of registries qualified under this paragraph.

“(3) Listing of Qualified Suppliers of Approved Electronic Clinical Decision Support Tools.—

“(A) In General.—Not later than July 1, 2014, the Secretary shall publish a list of qualified suppliers of approved electronic clinical decision support tools, in accordance with the provisions of this paragraph.

“(B) Standards.—

“(i) In General.—The Secretary, in consultation with the medical specialty societies described in paragraph (2)(A), shall establish standards for the approval of electronic clinical decision support tools provided by qualified suppliers.
“(ii) STANDARDS.—The standards established under clause (i) shall include the ability of such tool to—

“(I) use only standards and guidelines developed by national medical specialty societies;

“(II) capture the clinical indication for the applicable advanced diagnostic imaging services ordered, selected from the related appropriate use criteria;

“(III) accurately deliver to the ordering clinician appropriate use criteria (and related guidelines) for applicable advanced diagnostic imaging services, regardless of the physician specialty (if any) from which the criteria or guidelines originated or to which the criteria or guidelines are directed;

“(IV) in the case where there are multiple standards or guidelines applicable to a particular service or a specific set of clinical indications, indi-
cate the standards or guidelines that
are being applied;

“(V) determine the appropriateness
of orders for such services;

“(VI) submit standardized data
to one or more registries qualified
under paragraph (2) that is sufficient
for such registries to meet their docu-
mentation obligations under that
paragraph;

“(VII) be regularly and timely
updated;

“(VIII) generate a unique elec-
tronic identifier (referred to in this
subsection as a ‘Clinical Decision Sup-
port Number’) that documents the
fact that the clinical decision support
tool was consulted by the ordering
supplier or provider in connection
with the ordering of an applicable ad-
vanced diagnostic imaging service;
and

“(IX) perform other functions
determined to be necessary by the
Secretary in consultation with the
medical specialty societies described in paragraph (2)(A).

“(C) DESIGN.—An approved electronic clinical decision support tool under this paragraph—

“(i) may use a web-based portal, or be imbedded into an electronic health record system or other health information technology tool; and

“(ii) shall meet the privacy and security standards under the regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996.

“(D) USAGE AND CONVENIENT ACCESS REQUIREMENTS.—The Secretary shall only include in the list published under this paragraph approved electronic clinical decision support tools provided by suppliers who—

“(i) attest that they have obtained permission to incorporate appropriate use criteria (and related guidelines) developed by national medical specialty societies; and
“(ii) demonstrate that they can provide convenient access to such a tool via a secure web-based portal at no cost to—

“(I) suppliers and providers who order and furnish applicable advanced diagnostic imaging services under this title; and

“(II) the Federal government.

“(E) PERIODIC UPDATING.—The Secretary shall periodically update the list of qualified suppliers of approved electronic clinical decision support tools that meet the standards established under subparagraph (B) and the other requirements of this paragraph.

“(4) CONSULTATION REQUIREMENT.—The Secretary shall require that, as a condition of participation in the program under this title, suppliers and providers who order an applicable advanced diagnostic imaging service shall agree to consult an approved electronic clinical decision support tool listed pursuant to paragraph (3) in connection with such order.

“(5) PAYMENT FOR SERVICES CONTINGENT UPON REGISTRY SUBMISSION.—
“(A) IN GENERAL.—With respect to an applicable advanced diagnostic imaging service, payment for the technical or professional component of such service under the fee schedule established under section 1848(b) or under the prospective payment system for hospital outpatient department services under section 1833(t) may only be made if the documentation accompanying any such claim for payment demonstrates that an approved electronic clinical decision support tool listed pursuant to paragraph (3) was consulted and the required information was submitted to a registry qualified under paragraph (2).

“(B) DEMONSTRATION OF COMPLIANCE.—Compliance with the requirements under subparagraph (A) may be demonstrated by the inclusion of a Clinical Decision Support Number with the claim for payment.

“(6) EXEMPTIONS.—

“(A) SIGNIFICANT HARDSHIP EXEMPTION.—The Secretary may, on a case-by-case basis, exempt a supplier or provider to whom this subsection would otherwise apply if the Secretary determines, subject to annual re-
newal, that compliance with this subsection would result in a significant hardship, such as in the case of a supplier or provider who lacks access to an electronic records system or high-speed Internet access.

“(B) Emergency Services Exemption.—Applicable advanced diagnostic imaging services ordered emergently as part of an emergency medical evaluation shall not be subject to the requirements of this subsection.

“(C) Clarification of Inapplicability to Inpatient Services.—Advanced diagnostic imaging services ordered for inpatients and for which payment is made under part A are not subject to the requirements of this subsection.

“(7) Limitations.—The Secretary may not utilize the authority provided under this subsection to—

“(A) impose any requirement that a supplier or provider obtain approval to order an advanced diagnostic imaging service before performing such service or any other requirement for prior authorization with respect to such service; or
“(B) use approved electronic clinical decision support tools to make claims payment determinations under this title.

“(8) Rulemaking regarding patient safety.—The Secretary shall promulgate regulations to address situations in which a supplier or provider, prior to performing an applicable advanced diagnostic imaging service for an individual, reasonably believes that the service ordered, if performed, would pose a safety risk to the individual and that a different imaging service is more appropriate under the circumstances. Such regulations shall define circumstances in which the supplier or provider may change the order to an imaging service the supplier or provider determines is more appropriate.”.

(b) Compliance With Appropriateness Registry Treated as Satisfactory Quality Reporting.—Section 1848(m)(3) of the Social Security Act (42 U.S.C. 1395w–4(m)(3)) is amended—

(1) by redesignating subparagraph (F) as subparagraph (H); and

(2) by inserting after subparagraph (E) the following new subparagraphs:
“(F) Satisfactory reporting measures through participation in imaging appropriateness registry.—

“(i) In general.—For 2015 and subsequent years, the Secretary shall treat an eligible professional described in clause (ii) as satisfactorily submitting data on quality measures under subparagraph (A) if, instead of reporting measures under subsection (k)(2)(C), the eligible professional provides evidence, in a form and manner specified by the Secretary, demonstrating that the registry submission requirements under section 1833(p)(5) have been complied with with respect to not less than 90 percent of claims for applicable advanced diagnostic imaging services (as defined in section 1833(p)(1)(B)) submitted by the eligible professional in the year.

“(ii) Eligible professional described.—For purposes of clause (i), an eligible professional described in this clause is an eligible professional who furnishes the technical or professional component of
applicable advanced diagnostic imaging services (as so defined).

“(G) **Satisfactory Reporting Measures through Participation in Imaging Appropriateness Registry.**—

“(i) **In general.**—For 2015 and subsequent years, the Secretary shall treat an eligible professional described in clause (ii) as satisfactorily submitting data on quality measures under subparagraph (A) if, in lieu of reporting measures under subsection (k)(2)(C), the eligible professional provides evidence, in a form and manner specified by the Secretary, demonstrating that they have complied with the consultation requirements under section 1833(p)(4) with respect to not less than 90 percent of claims for applicable advanced diagnostic imaging services (as so defined) submitted by the eligible professional in the year.

“(ii) **Eligible Professional Described.**—For purposes of clause (i), an eligible professional described in this clause is an eligible professional who orders appli-
cable advanced diagnostic imaging services
(as so defined).”.

(c) CONFORMING AMENDMENT.—Section 1833(t)(16) of the Social Security Act (42 U.S.C. 1395l(t)(16)) is amended by adding at the end the following new subparagraph:

“(E) APPLICATION OF APPROPRIATENESS REQUIREMENTS FOR CERTAIN ADVANCED DIAGNOSTIC IMAGING SERVICES.—For provisions relating to the application of appropriateness requirements for certain advanced diagnostic imaging services, see section 1834(p).”.