

111TH CONGRESS
2D SESSION

S. 3708

To amend titles XVIII and XIX of the Social Security Act to clarify the application of EHR payment incentives in cases of multi-campus hospitals.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2010

Mr. SCHUMER (for himself, Mr. KERRY, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. CASEY, Mrs. GILLIBRAND, Mr. FRANKEN, Mr. HARKIN, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to clarify the application of EHR payment incentives in cases of multi-campus hospitals.

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 “Electronic Health
5 Record Incentives for Multi-Campus Hospitals Act of
6 2010”.

1 **SEC. 2. CLARIFICATION OF INCENTIVES FOR MULTI-CAM-**
 2 **PUS HOSPITALS FOR ADOPTION AND MEAN-**
 3 **INGFUL USE OF CERTIFIED ELECTRONIC**
 4 **HEALTH RECORDS.**

5 (a) SPECIAL RULE FOR APPLYING MEDICARE EHR
 6 INCENTIVE PAYMENTS TO REMOTE INPATIENT LOCA-
 7 TIONS OF A HOSPITAL.—Section 1886(n) of the Social Se-
 8 curity Act (42 U.S.C. 1395ww(n)) is amended—

9 (1) in paragraph (2), by adding at the end the
 10 following new subparagraph:

11 “(H) SPECIAL RULE FOR REMOTE INPA-
 12 TIENT LOCATIONS OF A HOSPITAL.—

13 “(i) IN GENERAL.—In the case of an
 14 eligible hospital that consists of a qualified
 15 main provider and one or more qualified
 16 remote inpatient locations, the hospital
 17 may elect (in such form and manner as
 18 specified by the Secretary) for all applica-
 19 ble payment years to—

20 “(I) substitute the base amount
 21 alternative described in clause (ii) for
 22 the base amount described in subpara-
 23 graph (A)(i)(I); or

24 “(II) substitute the discharge re-
 25 lated amount alternative described in
 26 clause (iii) for the discharge related

1 amount described in subparagraph
2 (A)(i)(II).

3 The election described in the previous sen-
4 tence, with respect to an eligible hospital,
5 shall be made once for such hospital and
6 shall apply to such hospital for all applica-
7 ble payment years.

8 “(ii) BASE AMOUNT ALTERNATIVE.—
9 The base amount alternative described in
10 this clause with respect to an eligible hos-
11 pital is the product of—

12 “(I) the base amount specified in
13 subparagraph (B); and

14 “(II) the total number of all
15 qualified component facilities of the
16 hospital.

17 An election to substitute the base amount
18 alternative described in this clause shall
19 not affect the computation of the discharge
20 related amount specified in subparagraph
21 (C) for the eligible hospital.

22 “(iii) DISCHARGE RELATED AMOUNT
23 ALTERNATIVE.—The discharge related
24 amount alternative described in this clause

with respect to an eligible hospital for a
12-month period is determined as follows:

“(I) First, compute the amount
under subparagraph (C) as if the
phrase ‘estimated based upon total
discharges for the eligible hospital (re-
gardless of any source of payment) for
the period divided by the total number
of all component facilities of the hos-
pital’ were substituted for the phrase
‘estimated based upon total discharges
for the eligible hospital (regardless of
any source of payment) for the pe-
riod’.

“(II) Then multiply the amount
computed under subclause (I) by the
total number of all qualified compo-
nent facilities of such hospital.

“(iv) DEFINITIONS.—For purposes of
this subsection:

“(I) APPLICABLE PAYMENT
YEAR.—The term ‘applicable payment
year’ means the first payment year
for which a hospital makes an election
described in clause (i) and each subse-

1 quent payment year applicable to such
2 hospital.

3 “(II) COMPONENT FACILITY;
4 QUALIFIED COMPONENT FACILITY.—

5 The term ‘component facility’ means,
6 with respect to an eligible hospital,
7 the main provider or any remote inpa-
8 tient location of such hospital. The
9 term ‘qualified component facility’
10 means, with respect to a main pro-
11 vider, a qualified main provider and,
12 with respect to a remote inpatient lo-
13 cation, a qualified remote inpatient lo-
14 cation.

15 “(III) MAIN PROVIDER; QUALI-
16 FIED MAIN PROVIDER.—The term
17 ‘main provider’, with respect to an eli-
18 gible hospital, has the meaning given
19 such term in section 413.65(a)(2) of
20 title 42, Code of Federal Regulations.
21 The term ‘qualified main provider’
22 means a main provider that is a
23 meaningful EHR user for the report-
24 ing period involved.

1 “(IV) REMOTE INPATIENT LOCA-
2 TION; QUALIFIED REMOTE INPATIENT
3 LOCATION.—The term ‘remote inpa-
4 tient location’ means, with respect to
5 an eligible hospital, a remote location
6 of a hospital, as defined in and ap-
7 plied under section 413.65 of title 42,
8 Code of Federal Regulations, that
9 provides inpatient hospital services
10 that are paid for under subsection (d).
11 The term ‘qualified remote inpatient
12 location’ means, with respect to an eli-
13 gible hospital, a location for which the
14 eligible hospital has submitted to the
15 Secretary, for the reporting period in-
16 volved, an attestation (in such form
17 and manner as specified by the Sec-
18 retary) that certifies that the location
19 is a remote inpatient location and a
20 meaningful EHR user for such pe-
21 riod.”; and

22 (2) in paragraph (4)(A)—

23 (A) at the end of clause (ii), by striking
24 “and”;

1 (B) at the end of clause (iii), by striking
 2 the period and inserting a semicolon; and

3 (C) by adding at the end the following new
 4 clauses:

5 “(iv) the methodology and standards
 6 for determining a remote inpatient loca-
 7 tion, a qualified remote inpatient location,
 8 a component facility, a qualified compo-
 9 nent facility, a main provider, and a quali-
 10 fied main provider, as such terms are de-
 11 fined in paragraph (2)(H)(iv), and which
 12 such locations, facilities, and providers are
 13 qualified remote inpatient locations, quali-
 14 fied component facilities, and qualified
 15 main providers, as such terms are defined
 16 in such paragraph; and

17 “(v) the methodology and standards
 18 for the election described in paragraph
 19 (2)(H).”.

20 (b) IMPLEMENTATION AND ADMINISTRATION.—

21 (1) IMPLEMENTATION.—Notwithstanding any
 22 other provision of law, the Secretary of Health and
 23 Human Services may implement this section by pro-
 24 gram instruction or otherwise.

1 (2) ADMINISTRATION.—Chapter 35 of title 44,
2 United States Code, shall not apply to the collection
3 of information to carry out the amendments made
4 by this section.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply as if included in the enactment
7 of the American Recovery and Reinvestment Act of 2009
8 (Public Law 111–5).

9 **SEC. 3. CLARIFICATION FOR MEDICAID EHR PAYMENT IN-**
10 **CENTIVES.**

11 (a) IN GENERAL.—Section 1903(t)(5) of the Social
12 Security Act (42 U.S.C. 1396b(t)(5)) is amended—

13 (1) by adding at the end the following new sub-
14 paragraph:

15 “(E) For purposes of determining the applicable
16 amounts specified in subparagraph (A) of section
17 1886(n)(2), as applied by the first sentence of subpara-
18 graph (B)—

19 “(i) the provisions of subparagraph (H) of such
20 section shall apply to a Medicaid provider described
21 in paragraph (2)(B) consisting of a qualified main
22 provider and one or more qualified remote inpatient
23 locations (as such terms are defined in clause (iv) of
24 such subparagraph (H)) in the same manner and to
25 the same extent that such subparagraph applies to

1 an eligible hospital described in clause (i) of such
2 subparagraph, except that—

3 “(I) in applying the second sentence of
4 clause (iv)(IV) of such subparagraph, with re-
5 spect to a Medicaid provider described in para-
6 graph (2)(B), in lieu of certifying that a remote
7 inpatient location is a meaningful EHR user,
8 the Medicaid provider shall certify that the re-
9 mote inpatient location is described in para-
10 graph (2)(B) and is in compliance with para-
11 graph (6)(C) of this subsection for the year of
12 payment involved; and

13 “(II) the first sentence of clause (iv)(IV) of
14 such subparagraph shall be applied in the case
15 of a Medicaid provider described in paragraph
16 (2)(B)(i) without regard to the requirement
17 that inpatient hospital services provided are
18 paid for under section 1886(d); and

19 “(ii) an election made under subparagraph (H)
20 of such section by an eligible hospital described in
21 clause (i) of such subparagraph that is a Medicaid
22 provider described in paragraph (2)(B), shall apply.
23 The Secretary may make appropriate adjustments to the
24 overall hospital EHR amount under subparagraph (B),
25 with respect to a Medicaid provider described in paragraph

1 (2)(B), to take into account the provisions of this subpara-
2 graph.”; and

3 (2) in the first sentence of subparagraph (B),
4 by inserting “and subject to subparagraph (E)”
5 after “For purposes of this paragraph”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply as if included in the enactment
8 of the American Recovery and Reinvestment Act of 2009
9 (Public Law 111–5).

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