

112TH CONGRESS
2D SESSION

H. R. 4066

To amend titles XVIII and XIX of the Social Security Act to exclude pathologists from incentive payments and penalties under Medicare and Medicaid relating to the meaningful use of electronic health records.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2012

Mr. PRICE of Georgia (for himself and Mr. KIND) 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 titles XVIII and XIX of the Social Security Act to exclude pathologists from incentive payments and penalties under Medicare and Medicaid relating to the meaningful use of electronic health records.

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 “Health Information
5 Technology Reform Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Under the American Recovery and Reinvest-
2 ment Act of 2009, physicians are eligible to receive
3 Federal funding to promote the adoption of elec-
4 tronic health records if meaningful use standards
5 are met.

6 (2) Beginning in 2015, certain physicians who
7 do not meet such meaningful use standards face
8 penalties in the form of reductions in Medicare pay-
9 ments.

10 (3) Pathologists and their laboratories have
11 been on the front lines of electronic health informa-
12 tion, utilizing computerized Laboratory Information
13 Systems and Anatomic Pathology Information Sys-
14 tems to support the work of analyzing patient speci-
15 mens and generating test results. These laboratory
16 information systems exchange laboratory and pathol-
17 ogy data with electronic health records and enter-
18 prise-wide clinical information systems.

19 (4) Current regulations implementing electronic
20 health record meaningful use standards largely re-
21 flect physician office-based practices and thus, are
22 not applicable to the practice of pathology and lab-
23 oratory medicine. Furthermore, since pathologists
24 use Laboratory Information Systems and Anatomic
25 Pathology Information Systems, maintenance of cer-

1 tain patient health information in a certified elec-
2 tronic health record is not applicable.

3 (5) This lack of alignment between regulation
4 and pathology practice makes it impossible for pa-
5 thologists to satisfy meaningful use standards, put-
6 ting them at risk for payment penalties under Medi-
7 care.

8 (6) Through their role in appropriate test selec-
9 tion and personalized medicine, and with access to
10 the patient's electronic health record, pathologists
11 can play a key role in furthering Congress' goals of
12 reducing costs and improving health care quality.

13 (7) However, imposing payment penalties on
14 pathologists for failing to meet electronic health
15 record meaningful use standards that do not apply
16 to their practice and typical interaction with pa-
17 tients, will not help advance quality care and ac-
18 countability.

19 **SEC. 3. EXCLUDING PATHOLOGISTS FROM MEDICARE AND**
20 **MEDICAID INCENTIVE PAYMENTS AND PEN-**
21 **ALTIES RELATING TO THE MEANINGFUL USE**
22 **OF ELECTRONIC HEALTH RECORDS.**

23 (a) MEDICARE.—

24 (1) EXCLUSION FROM PENALTIES.—Section
25 1848(a)(7)(E)(iii) of the Social Security Act (42

1 U.S.C. 1395w-4(a)(7)(E)(iii)) is amended by insert-
2 ing “, except such term does not include a patholo-
3 gist, as identified by enrollment under this title with
4 a specialty code of 22 or 69” after “section
5 1861(r)”.

6 (2) EXCLUSION FROM INCENTIVE PAYMENTS.—
7 Section 1848(o)(5)(C) of such Act (42 U.S.C.
8 1395w-4(o)(5)(C)) is amended by inserting “, ex-
9 cept such term does not include a pathologist, as
10 identified by enrollment under this title with a spe-
11 cialty code of 22 or 69” after “section 1861(r)”.

12 (b) MEDICAID.—Section 1903(t)(3)(B)(i) of the So-
13 cial Security Act (42 U.S.C. 1396b(t)(3)(B)(i)) is amend-
14 ed by inserting “other than a pathologist, as identified by
15 enrollment under title XVIII with a specialty code of 22
16 or 69 or by the applicable equivalent State identification
17 number for pathology or independent laboratory” after
18 “physician”.

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