

114TH CONGRESS
1ST SESSION

H. R. 3309

To amend titles XVIII and XIX of the Social Security Act to improve the electronic health records meaningful use programs under the Medicare and Medicaid programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mrs. ELLMERS of North Carolina 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 improve the electronic health records meaningful use programs under the Medicare and Medicaid programs, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Further Flexibility in HIT Reporting and Advancing
6 Interoperability Act” or the “Flex-IT 2 Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ALIGNMENT OF MEANINGFUL USE RULEMAKING TO
 MERIT-BASED INCENTIVE PAYMENT SYSTEM RULEMAKING

Sec. 101. Pausing meaningful use rulemaking.

TITLE II—IMPROVING MEANINGFUL USE

Sec. 201. Removing the pass-fail approach of the Medicare and Medicaid meaningful use program.

Sec. 202. Aligning quality reporting in the Medicare and Medicaid meaningful use program.

Sec. 203. Expanding the hardship exception to the Medicare EHR payment adjustments.

Sec. 204. Promoting interoperability through EHR certification process.

Sec. 205. Improving the timing of the adoption of more stringent measures of meaningful use under the Medicare and Medicaid meaningful use program.

Sec. 206. Three-month EHR reporting periods for the Medicare and Medicaid EHR incentive payment programs.

Sec. 207. Providing eligible professionals and eligible hospitals the option to meet a more advanced stage of meaningful use.

3 **TITLE I—ALIGNMENT OF MEAN-**
 4 **INGFUL USE RULEMAKING TO**
 5 **MERIT-BASED INCENTIVE**
 6 **PAYMENT SYSTEM RULE-**
 7 **MAKING**

8 **SEC. 101. PAUSING MEANINGFUL USE RULEMAKING.**

9 (a) SENSE OF THE CONGRESS.—It is the sense of
 10 Congress that the Secretary of Health and Human Serv-
 11 ices (in this section referred to as the “Secretary”) should
 12 not finalize the proposed rules relating to Stage 3 criteria
 13 for the meaningful use of certified EHR technology (as
 14 defined in section 3000 of the Public Health Service Act
 15 (42 U.S.C. 300jj)) and the issuance of 2015 EHR certifi-

1 cation criteria and should instead encourage interoper-
2 ability, usability, and improved outcomes with respect to
3 electronic health records.

4 (b) NO ISSUANCE OF STAGE 3 CRITERIA OR OF EHR
5 CERTIFICATION CRITERIA BEFORE 2017 UNLESS CONDI-
6 TIONS MET.—Unless one of the conditions described in
7 subsection (c) has been met, the Secretary shall not issue,
8 prior to January 1, 2017—

9 (1) any proposed or final rule that would mod-
10 ify the definition of the term “Meaningful EHR
11 user” under section 495.4 of title 42, Code of Fed-
12 eral Regulations (or any successor regulation), by
13 adding Stage 3 criteria for eligible professionals or
14 eligible hospitals; or

15 (2) any proposed or final rule that would add
16 new certification criteria for certified EHR tech-
17 nology under part 170 of title 45, Code of Federal
18 Regulations.

19 (c) CONDITIONS.—The conditions described in this
20 subsection are the following:

21 (1) The Secretary certifies that 75 percent of
22 both eligible hospitals and eligible professionals have
23 successfully attested to the Stage 2 criteria estab-
24 lished under section 495.6 of title 42, Code of Fed-
25 eral Regulations.

1 (2) The Secretary promulgates a final rule to
2 implement the Merit-Based Incentive Payment Sys-
3 tem established under section 1848(q) of the Social
4 Security Act (42 U.S.C. 1395w-4(q)).

5 (d) FLEXIBILITY TO ADJUST EXISTING MEANING-
6 FUL USE AND CERTIFICATION CRITERIA.—Nothing in
7 this section shall be construed as affecting the authority
8 of the Secretary to change, modify, suspend, or revoke
9 meaningful use and certification criteria effective on the
10 date of the enactment of this Act, including the Stage 2
11 criteria established under section 495.6 of title 42, Code
12 of Federal Regulations, and the 2014 Edition certified
13 health record criteria under subpart C, part 170 of title
14 45, Code of Federal Regulations, for any of the following
15 reasons:

16 (1) The change, modification, suspension, or
17 revocation relates to the recommendations for
18 achieving widespread interoperability made by the
19 Secretary pursuant to section 106 of the Medicare
20 Access and CHIP Reauthorization Act of 2015.

21 (2) The criteria may negatively impact the
22 quality of care for, or may risk harm to, a patient.

23 (3) The change, modification, suspension, or
24 revocation is necessary to reflect advances in science
25 or technology, or to improve transparency.

TITLE II—IMPROVING MEANINGFUL USE

SEC. 201. REMOVING THE PASS-FAIL APPROACH OF THE MEDICARE AND MEDICAID MEANINGFUL USE PROGRAM.

(a) ELIGIBLE PROFESSIONALS.—

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

“(E) CONSIDERATION OF TECHNOLOGICAL AND COST BARRIERS.—In applying clauses (i), (ii), and (iii) of subparagraph (A) to determine whether a professional is using certified EHR technology in a meaningful manner for a period described in such subparagraph for a year after 2015, the Secretary—

“(i) may not require that the professional, in order to be considered a meaningful EHR user for such period, meet every requirement or objective specified pursuant to such clauses but instead shall apply a linear scale;

“(ii) shall establish a method to determine if an eligible professional is a partial

1 meaningful user consistent with such linear
2 scale; and

3 “(iii) shall consider differences among
4 professionals (such as differences in the
5 specialties and patient populations of pro-
6 fessionals) as well as technological and cost
7 barriers in determining which of the re-
8 quirements or objectives must be met by
9 the professional during such period in
10 order for the professional to be so consid-
11 ered.”.

12 (2) INCENTIVE PAYMENT.—Section
13 1848(o)(1)(A)(i) of the Social Security Act (42
14 U.S.C. 1395w-4(o)(1)(A)(i)) is amended—

15 (A) by inserting “or, for 2016, partial
16 meaningful EHR user” after “meaningful EHR
17 user”; and

18 (B) by inserting “(or, for 2016, in accord-
19 ance with the linear scale applied pursuant to
20 paragraph (2)(E), equal to not more than)”
21 after “equal to”.

22 (3) PAYMENT ADJUSTMENT.—Section
23 1848(a)(7)(A)(i) of the Social Security Act (42
24 U.S.C. 1395w-4(a)(7)(A)(i)) is amended—

(A) by inserting “or, for such a year after 2015, partial meaningful EHR user” after “meaningful EHR user”; and

(B) by inserting “(or, for such a year after 2015, in accordance with the linear scale applied pursuant to paragraph (2)(E), equal to at least)” after “equal to”.

(b) ELIGIBLE HOSPITALS.—

(1) IN GENERAL.—Section 1886(n)(3) of the Social Security Act (42 U.S.C. 1395ww(n)(3)) is amended by adding at the end the following new subparagraph:

“(D) CONSIDERATION OF TECHNOLOGICAL AND COST BARRIERS.—In applying clauses (i), (ii), and (iii) of subparagraph (A) to determine whether a hospital is using certified EHR technology in a meaningful manner for an EHR reporting period for a fiscal year after fiscal year 2015, the Secretary—

“(i) may not require that the hospital, in order to be considered a meaningful EHR user for such period, meet every such requirement or objective specified pursuant to such clauses but instead shall apply a linear scale;

1 “(ii) shall establish a method to deter-
 2 mine if an eligible professional is a partial
 3 meaningful user consistent with such linear
 4 scale; and

5 “(iii) shall consider differences among
 6 hospitals (such as differences in the type of
 7 hospital, specialties available at and pa-
 8 tient populations of hospitals) in deter-
 9 mining which of the requirements or objec-
 10 tives must be met by the hospital during
 11 such period in order for the hospital to be
 12 so considered.”.

13 (2) INCENTIVE PAYMENT.—Section 1886(n)(1)
 14 of the Social Security Act (42 U.S.C. 1395ww(n)(1))
 15 is amended—

16 (A) by inserting “or, for a fiscal year after
 17 fiscal year 2015, partial meaningful EHR user”
 18 after “meaningful EHR user”; and

19 (B) by inserting “(or, for a fiscal year
 20 after fiscal year 2015, in accordance with the
 21 linear scale applied pursuant to paragraph
 22 (2)(D), equal to not more than)” after “equal
 23 to”.

1 (3) PAYMENT ADJUSTMENT.—Section
 2 1886(b)(3)(B)(ix)(I) of the Social Security Act (42
 3 U.S.C. 1395ww(b)(3)(B)(ix)(I)) is amended—

4 (A) in subclause (I)—

5 (i) by inserting “or, for a fiscal year
 6 after fiscal year 2015, partial meaningful
 7 EHR user” after “meaningful EHR user”;
 8 and

9 (ii) by inserting “(or, for a fiscal year
 10 after fiscal year 2015, in accordance with
 11 the linear scale applied pursuant to section
 12 1886(n)(2)(D), equal to at least)” after
 13 “equal to”; and

14 (B) in subclause (III), by inserting “or, for
 15 a fiscal year after fiscal year 2015, partial
 16 meaningful EHR user” after “meaningful EHR
 17 user”.

18 (c) APPLICATION UNDER MEDICAID.—Section
 19 1903(t)(8) of the Social Security Act (42 U.S.C.
 20 1396b(t)(8)) is amended by inserting after the second sen-
 21 tence the following: “In doing so, the Secretary shall en-
 22 sure that the provisions of subparagraph (E) of section
 23 1848(o)(2) and subparagraph (D) of section 1886(n)(3)
 24 apply under this title with respect to demonstrating mean-

1 ingful use in a similar manner as such provisions apply
 2 under title XVIII.”.

3 (d) APPLICATION TO MEDICARE ADVANTAGE.—Sec-
 4 tion 1853 of the Social Security Act (42 U.S.C. 1395w-
 5 23) is amended—

6 (1) in subsection (l)—

7 (A) in paragraph (1), by inserting “or, for
 8 a year after 2015, partial meaningful EHR
 9 users,” after “meaningful EHR users”;

10 (B) in paragraph (4)(A), by inserting “(or,
 11 for a year after 2015, in accordance with the
 12 linear scale applied pursuant to section
 13 1848(o)(2)(E), equal to at least)” after “equal
 14 to”; and

15 (C) in paragraph (6), in each of subpara-
 16 graphs (A) and (B), by inserting “or, for a year
 17 after 2015, partial meaningful EHR user,”
 18 after “meaningful EHR user”; and

19 (2) in subsection (m)—

20 (A) in paragraph (1), by inserting “or, for
 21 a fiscal year after fiscal year 2015, partial
 22 meaningful EHR users,” after “meaningful
 23 EHR users”; and

24 (B) in paragraph (4)(A), by inserting “or,
 25 for a fiscal year after fiscal year 2015, partial

1 meaningful EHR users,” after “meaningful
2 EHR users”.

3 (e) APPLICATION TO CRITICAL ACCESS HOS-
4 PITALS.—Section 1814(l) of the Social Security Act (42
5 U.S.C. 1395f(l)) is amended—

6 (1) in paragraph (3)(A), by inserting “or, for a
7 fiscal year after 2015, partial meaningful EHR
8 user,” after “meaningful EHR user”;

9 (2) in paragraph (3)(A)(ii)(I), by inserting “(or,
10 for a fiscal year after fiscal year 2015, in accordance
11 with the linear scale applied pursuant to section
12 1886(n)(2)(D), equal to not more than)” after
13 “equal to”; and

14 (3) in paragraph (4)—

15 (A) in subparagraph (A), by inserting “or,
16 for a fiscal year after 2015, partial meaningful
17 EHR user,” after “meaningful EHR user”; and

18 (B) in subparagraph (B), by inserting
19 “(or, for a fiscal year after fiscal year 2015, in
20 accordance with the linear scale applied pursu-
21 ant to section 1886(n)(2)(D), a percent equal
22 to at least the applicable percent)” after “appli-
23 cable percent”.

1 **SEC. 202. ALIGNING QUALITY REPORTING IN THE MEDI-**
2 **CARE AND MEDICAID MEANINGFUL USE PRO-**
3 **GRAM.**

4 (a) ELIGIBLE PROFESSIONALS.—

5 (1) TESTING OF MEASURES.—Section
6 1848(k)(2)(C) of the Social Security Act (42 U.S.C.
7 1395w-4(k)(2)(C)) is amended by adding at the end
8 the following new clause:

9 “(iii) TESTING.—After December 31,
10 2015, the Secretary may only specify a
11 clinical quality measure under this sub-
12 paragraph if the Secretary has dem-
13 onstrated, through field tests among mul-
14 tiple and varied eligible professionals, that
15 it is feasible for such professionals to elec-
16 tronically submit valid and accurate infor-
17 mation on the measure.”.

18 (2) DEEMED COMPLIANCE IF SATISFY PQRS.—
19 Section 1848(o)(2)(B)(iii) of the Social Security Act
20 (42 U.S.C. 1395w-4(o)(2)(B)(iii)) is amended by
21 adding at the end the following:

22 “In implementing the preceding sentence, the Sec-
23 retary shall treat an eligible professional who, for a period
24 under subsection (k) for covered professional services fur-
25 nished in a year after 2015, satisfies the requirements of
26 clauses (i) or (ii) of subsection (k)(2)(C), or who satisfac-

torily participates in a qualified clinical data registry for a reporting period (as defined in subsection (m)(6)(C)) as determined by the Secretary pursuant to subsection (k)(2)(C) and subsection (m)(3)(D), as satisfying the requirement of subparagraph (A) for the corresponding period described in such subparagraph for such year.”.

(b) ELIGIBLE HOSPITALS.—

(1) TESTING OF MEASURES.—Section 1886(n)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(n)(3)(B)(i)) is amended by adding at the end the following new subclause:

“(III) After September 30, 2015, the Secretary may only select a clinical quality measure under this subparagraph if the Secretary has demonstrated, through field tests in multiple and varied hospitals, that it is feasible for such hospitals to electronically submit valid and accurate information on the measure.”.

(2) DEEMED COMPLIANCE IF SATISFY HOSPITAL INPATIENT QUALITY REPORTING REQUIREMENTS.—Section 1886(n)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(n)(3)(B)(iii)) is amended by adding at the end the following: “In im-

1 plementing the preceding sentence, the Secretary
 2 shall treat an eligible hospital that, for a period
 3 under subsection (b)(3)(B)(viii) for a fiscal year
 4 after fiscal year 2015, satisfies the requirements of
 5 such subsection as satisfying the requirement of sub-
 6 paragraph (A) for the corresponding reporting pe-
 7 riod for such fiscal year.”.

8 (c) APPLICATION UNDER MEDICAID.—Section
 9 1903(t)(8) of the Social Security Act (42 U.S.C.
 10 1396b(t)(8)), as amended by section 201(c), is further
 11 amended in the third sentence—

12 (1) by inserting “and the last sentence of sub-
 13 paragraph (B)(iii)” after “subparagraph (E)”; and

14 (2) by inserting “and the last sentence of sub-
 15 paragraph (B)(i)(III)” after “subparagraph (D)”.

16 **SEC. 203. EXPANDING THE HARDSHIP EXCEPTION TO THE**
 17 **MEDICARE EHR PAYMENT ADJUSTMENTS.**

18 (a) ELIGIBLE PROFESSIONALS.—Section
 19 1848(a)(7)(B) of the Social Security Act (42 U.S.C.
 20 1395w-4(a)(7)(B)) is amended to read as follows:

21 “(B) SIGNIFICANT HARDSHIP EXCEP-
 22 TION.—

23 “(i) IN GENERAL.—Subject to clause
 24 (ii), the Secretary may, on a case-by-case
 25 basis, exempt an eligible professional from

1 the application of the payment adjustment
2 under subparagraph (A) if the Secretary
3 determines, subject to annual renewal, that
4 compliance with the requirement for being
5 a meaningful EHR user would result in a
6 significant hardship, such as in the case of
7 an eligible professional who practices in a
8 rural area without sufficient Internet ac-
9 cess.

10 “(ii) REQUIRED EXCEPTION.—Subject
11 to clause (iii), beginning for 2015, the Sec-
12 retary shall, on a case-by-case basis, ex-
13 empt an eligible professional from the ap-
14 plication of the payment adjustment under
15 subparagraph (A) if the Secretary deter-
16 mines, subject to annual renewal, the eligi-
17 ble professional—

18 “(I) encounters unforeseen cir-
19 cumstances (including technological
20 difficulties and other disruptive situa-
21 tions) that present barriers to compli-
22 ance with the requirement for being a
23 meaningful EHR user;

24 “(II) changes certified EHR
25 technology vendors, or changes from

1 self-developed electronic health
2 records to certified EHR technology
3 from a vendor;

4 “(III) is an anesthesiologist, ra-
5 diologist, pathologist, hospitalist, or is
6 in any other physician specialty or
7 subspecialty identified through rule-
8 making as a specialty or subspecialty
9 that presents physicians in the spe-
10 cialty or subspecialty with unique dif-
11 ficulties in complying with such re-
12 quirement;

13 “(IV) is at or near retirement
14 age (as defined by the Secretary); or

15 “(V) is not able to be in compli-
16 ance with any such requirement be-
17 cause the certified EHR technology
18 used by such professional is not capa-
19 ble of sending, receiving, and
20 seamlessly incorporating data from
21 other certified EHR technology.

22 “(iii) LIMITATION.—In no case may
23 an eligible professional be granted an ex-
24 emption under this subparagraph for more
25 than 5 years.”.

1 (b) ELIGIBLE HOSPITALS.—Section
2 1886(b)(3)(B)(ix)(II) of the Social Security Act (42
3 U.S.C. 1395ww(b)(3)(B)(ix)(II)) is amended to read as
4 follows:

5 “(II)(aa) Subject to item (cc),
6 the Secretary may, on a case-by-case
7 basis, exempt a subsection (d) hos-
8 pital from the application of subclause
9 (I) with respect to a fiscal year if the
10 Secretary determines, subject to an-
11 nual renewal, that requiring such hos-
12 pital to be a meaningful EHR user
13 during such fiscal year would result in
14 a significant hardship, such as in the
15 case of a hospital in a rural area with-
16 out sufficient Internet access.

17 “(bb) Subject to item (cc), begin-
18 ning for fiscal year 2015, the Sec-
19 retary shall, on a case-by-case basis,
20 exempt a subsection (d) hospital from
21 the application of subclause (I) with
22 respect to a fiscal year if the Sec-
23 retary determines, subject to annual
24 renewal, that the hospital encounters
25 unforeseen circumstances (including

1 technological difficulties and other dis-
 2 ruptive situations) that present bar-
 3 riers to compliance with the require-
 4 ment for such hospital to be a mean-
 5 ingful EHR user during such fiscal
 6 year, changes certified EHR tech-
 7 nology vendors, changes from self-de-
 8 veloped electronic health records to
 9 certified EHR technology from a ven-
 10 dor, or is not able to be in compliance
 11 with any such requirement because
 12 the certified EHR technology used by
 13 such hospital is not capable of send-
 14 ing, receiving, and seamlessly incor-
 15 porating data from other certified
 16 EHR technology.

17 “(cc) In no case may a hospital
 18 be granted an exemption under this
 19 subclause for more than 5 years.”.

20 **SEC. 204. PROMOTING INTEROPERABILITY THROUGH EHR**
 21 **CERTIFICATION PROCESS.**

22 Section 3004(a)(1) of the Public Health Service Act
 23 (42 U.S.C. 300jj–14(a)(1)) is amended by adding at the
 24 end the following new sentence: “The Secretary may not
 25 propose adoption of such standards, implementation speci-

fications, or certification criteria unless such standards,
 implementation specifications, or certification criteria, re-
 spectively, have been successfully tested for widespread
 use by end users for at least a one-year period.”.

**SEC. 205. IMPROVING THE TIMING OF THE ADOPTION OF
 MORE STRINGENT MEASURES OF MEANING-
 FUL USE UNDER THE MEDICARE AND MED-
 ICAID MEANINGFUL USE PROGRAM.**

(a) ELIGIBLE PROFESSIONALS.—Section 1848(o)(2)
 of the Social Security Act (42 U.S.C. 1395w–4(o)(2)), as
 amended by section 201(a), is further amended—

(1) in subparagraph (A), in the matter fol-
 lowing clause (iii), by striking “shall seek” and in-
 serting “shall, in accordance with subparagraph (F),
 seek”; and

(2) by adding at the end the following new sub-
 paragraph:

“(F) PROVISIONS RELATING TO IN-
 CREASED STRINGENCY OF MEASURES.—The
 Secretary shall implement the last sentence of
 subparagraph (A) (relating to requirements for
 more stringent measures of meaningful use se-
 lected under this paragraph) in accordance with
 the following:

1 “(i) ENSURING PREDICTABILITY.—
2 Subject to clause (ii), in the case that the
3 Secretary selects measures of meaningful
4 use, including any objectives associated
5 with such measures, the Secretary may not
6 change or modify such selection for a pe-
7 riod of three years.

8 “(ii) FLEXIBILITY TO ADJUST CER-
9 TAIN MEASURES.—

10 “(I) PERMISSIBLE REASON FOR
11 CHANGES OR MODIFICATIONS TO
12 MEASURES.—The Secretary may
13 change or modify a measure of mean-
14 ingful use before the end of the three-
15 year period described in clause (i) if
16 the Secretary makes one or more of
17 the following determinations:

18 “(aa) The measure may neg-
19 atively impact the quality of care
20 for, or may risk harm to, a pa-
21 tient.

22 “(bb) There is a new hard-
23 ship demonstrated by eligible
24 professionals specific to the
25 measure.

1 “(cc) An adjustment to the
2 measure is necessary to reflect
3 advances in science or tech-
4 nology.

5 “(II) REQUEST FOR REVIEW OF
6 CLINICAL QUALITY MEASURES.—The
7 Secretary shall establish a process
8 under which stakeholders may, in the
9 case that new information is available
10 with respect to a clinical quality meas-
11 ure selected by the Secretary for qual-
12 ity reporting under subparagraph
13 (A)(iii), request that the Secretary
14 change or modify such measure for a
15 reason described in subclause (I).”.

16 (b) ELIGIBLE HOSPITALS.—Section 1886(n)(3) of
17 the Social Security Act (42 U.S.C. 1395ww(n)(3)), as
18 amended by section 201(b), is further amended—

19 (1) in subparagraph (A), in the matter fol-
20 lowing clause (iii), by striking “shall seek” and in-
21 serting “shall, in accordance with subparagraph (E),
22 seek”; and

23 (2) by adding at the end the following new sub-
24 paragraph:

1 “(E) PROVISIONS RELATING TO IN-
2 CREASED STRINGENCY OF MEASURES.—The
3 Secretary shall implement the last sentence of
4 subparagraph (A) (relating to requirements for
5 more stringent measures of meaningful use se-
6 lected under this paragraph) in accordance with
7 the following:

8 “(i) ENSURING PREDICTABILITY.—
9 Subject to clause (ii), in the case that the
10 Secretary selects measures of meaningful
11 use, including any objectives associated
12 with such measures, the Secretary may not
13 change or modify such selection for a pe-
14 riod of three years.

15 “(ii) FLEXIBILITY TO ADJUST CER-
16 TAIN MEASURES.—

17 “(I) PERMISSIBLE REASON FOR
18 ADJUSTMENTS TO MEASURES.—The
19 Secretary may change or modify a
20 measure of meaningful use before the
21 end of the three-year period described
22 in clause (i) if the Secretary makes
23 one or more of the following deter-
24 minations:

1 “(aa) The measure may neg-
2 atively impact the quality of care
3 for, or may risk harm to, a pa-
4 tient.

5 “(bb) There is a new hard-
6 ship demonstrated by eligible
7 hospitals specific to the measure.

8 “(cc) An adjustment to the
9 measure is necessary to reflect
10 advances in science or tech-
11 nology.

12 “(II) REQUEST FOR REVIEW OF
13 CLINICAL QUALITY MEASURES.—The
14 Secretary shall establish a process
15 under which stakeholders may, in the
16 case that new information is available
17 with respect to a clinical quality meas-
18 ure selected by the Secretary for qual-
19 ity reporting under subparagraph
20 (A)(iii), request that the Secretary
21 change or modify such measure for a
22 reason described in subclause (I).”.

23 (c) APPLICATION UNDER MEDICAID.—Section
24 1903(t)(8) of the Social Security Act (42 U.S.C.

1 1396b(t)(8)), as amended by sections 201(c) and 202(c),
 2 is further amended in the third sentence—

3 (1) by striking “and the last sentence of sub-
 4 paragraph (B)(iii)” and inserting “, the last sen-
 5 tence of subparagraph (B)(iii), and subparagraph
 6 (F)””; and

7 (2) by striking “and the last sentence of sub-
 8 paragraph (B)(i)(III)” and inserting “, the last sen-
 9 tence of subparagraph (B)(i)(III), and subparagraph
 10 (E)”.

11 **SEC. 206. THREE-MONTH EHR REPORTING PERIODS FOR**
 12 **THE MEDICARE AND MEDICAID EHR INCEN-**
 13 **TIVE PAYMENT PROGRAMS.**

14 (a) EHR REPORTING PERIOD.—

15 (1) ELIGIBLE PROFESSIONALS.—Section
 16 1848(a)(7)(E)(ii) of the Social Security Act (42
 17 U.S.C. 1395w–4(a)(7)(E)(ii)) is amended by adding
 18 at the end the following: “Such period (or periods)
 19 shall consist of a three-month reporting period, with-
 20 out regard to the payment year or the stage criteria
 21 (as established under section 495.6 of title 42, Code
 22 of Federal Regulations) involved.”.

23 (2) ELIGIBLE HOSPITALS.—Subsections
 24 (b)(3)(B)(ix)(IV) and (n)(6)(A) of section 1886 of
 25 the Social Security Act (42 U.S.C. 1395ww) are

1 each amended by adding at the end the following:
2 “Such period (or periods) shall consist of a three-
3 month reporting period, without regard to the pay-
4 ment year or the stage criteria (as established under
5 section 495.6 of title 42, Code of Federal Regula-
6 tions) involved.”.

7 (3) APPLICATION UNDER MEDICAID.—Section
8 1903(t)(8) of the Social Security Act (42 U.S.C.
9 1396b(t)(8)), as amended by sections 201(c),
10 202(c), and 205(c), is further amended by adding at
11 the end the following new sentence: “Such reporting
12 periods shall consist of a three-month reporting pe-
13 riod, without regard to payment year or the stage
14 criteria (as established under section 495.6 of title
15 42, Code of Federal Regulations).”.

16 (b) REGULATIONS.—Not later than 3 months after
17 the date of enactment of this Act, the Secretary of Health
18 and Human Services shall promulgate regulations to carry
19 out the amendments made by subsection (a). Such regula-
20 tions shall apply beginning with the 2016 EHR reporting
21 period.

1 **SEC. 207. PROVIDING ELIGIBLE PROFESSIONALS AND ELI-**
2 **GIBLE HOSPITALS THE OPTION TO MEET A**
3 **MORE ADVANCED STAGE OF MEANINGFUL**
4 **USE.**

5 (a) MEANINGFUL EHR USER.—A “meaningful EHR
6 user”, as defined under section 495.4 of title 24, Code
7 of Federal Regulations, shall include eligible professionals
8 and eligible hospitals who demonstrate meaningful use of
9 certified EHR technology by meeting the applicable objec-
10 tives and associated measures of either of the following:

11 (1) The stage of meaningful use that the eligi-
12 ble professional or eligible hospital is scheduled to
13 meet during the applicable “EHR reporting period”,
14 as such term is defined under section 495.4 of title
15 24, Code of Federal Regulations.

16 (2) Any other stage of meaningful use, provided
17 that such stage of meaningful use selected by the eli-
18 gible professional or eligible hospital is more ad-
19 vanced than the stage of meaningful use that the eli-
20 gible professional or eligible hospital is scheduled to
21 meet during the applicable EHR reporting period.

22 (b) DEFINITION.—In this subparagraph, the term
23 “stage of meaningful use” means the stage criteria estab-
24 lished by the Secretary of Health and Human Services

1 under section 495.6 of title 42, Code of Federal Regula-
2 tions.

