

114TH CONGRESS  
1ST SESSION

# S. 1347

---

## AN ACT

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Electronic Health  
3 Fairness Act of 2015”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Ambulatory surgery centers were not cov-  
7 ered under the provisions of the HITECH Act of  
8 2009, which created certification standards and in-  
9 centives for adopting electronic health record (EHR)  
10 technology in the physician office and hospital set-  
11 tings.

12 (2) The Centers for Medicare & Medicaid Serv-  
13 ices (CMS) defines a meaningful EHR user as an el-  
14 igible professional having 50 percent or more of the  
15 professional’s outpatient encounters at practices or  
16 locations equipped with certified EHR technology.

17 (3) Physicians with patient encounters in an  
18 ambulatory surgical center are at a disadvantage  
19 when attempting to meet meaningful use require-  
20 ments because there currently is not certified EHR  
21 technology for such centers.

22 (4) Until such time as EHR technology is cer-  
23 tified specifically for use in the ambulatory surgical  
24 centers, patient encounters that occur in such a cen-  
25 ter should not be used when calculating whether an  
26 eligible professional meets meaningful use require-

1       ments, unless an eligible professional elects to in-  
2       clude those encounters.

3       **SEC. 3. TREATMENT OF PATIENT ENCOUNTERS IN AMBULA-**  
4                               **TORY SURGICAL CENTERS IN DETERMINING**  
5                               **MEANINGFUL EHR USE.**

6       Section 1848(o)(2) of the Social Security Act (42  
7 U.S.C. 1395w-4(o)(2)) is amended by adding at the end  
8 of the following new subparagraph:

9                               “(E) TREATMENT OF PATIENT ENCOUN-  
10                              TERS AT AMBULATORY SURGICAL CENTERS.—

11                             “(i) IN GENERAL.—Subject to clause  
12                             (ii), for a payment year after 2015, any  
13                             patient encounter of an eligible profes-  
14                             sional occurring at an ambulatory surgical  
15                             center (described in section 1833(i)(1)(A))  
16                             shall not be treated as a patient encounter  
17                             in determining whether an eligible profes-  
18                             sional qualifies as a meaningful EHR user.  
19                             Notwithstanding any other provision of  
20                             law, the Secretary may implement this  
21                             clause by program instruction or otherwise.

22                             “(ii) SUNSET.—Clause (i) shall no  
23                             longer apply as of the first payment year  
24                             that begins more than 3 years after the  
25                             date the Secretary determines, through no-

1                    tice and comment rulemaking, that cer-  
2                    tified EHR technology is applicable to the  
3                    ambulatory surgical center setting.”.

Passed the Senate August 5, 2015.

Attest:

*Secretary.*



114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 1347**

---

**AN ACT**

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, and for other purposes.