

112TH CONGRESS
1ST SESSION

H. R. 2128

To amend title XVIII of the Social Security Act to prevent the application of payment adjustments for eligible professionals who are not successful electronic prescribers, to remove any electronic prescribing requirement as an element for demonstrating meaningful use of certified EHR technology, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2011

Mrs. ELLMERS (for herself and Mrs. BLACK) 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 prevent the application of payment adjustments for eligible professionals who are not successful electronic prescribers, to remove any electronic prescribing requirement as an element for demonstrating meaningful use of certified EHR technology, 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 “STEAM (Stripping
3 The E-Prescribe Arbitrary Mandates) Act of 2011”.

4 **SEC. 2. PREVENTING APPLICATION OF MEDICARE PAY-**
5 **MENT ADJUSTMENTS FOR ELIGIBLE PROFES-**
6 **SIONALS NOT SUCCESSFUL ELECTRONIC**
7 **PRESCRIBERS.**

8 (a) REPEAL OF E-PRESCRIBING PAYMENT ADJUST-
9 MENT.—Paragraph (5) of section 1848(a) of the Social
10 Security Act (42 U.S.C. 1395w-4(a)) is repealed.

11 (b) REMOVING E-PRESCRIBING AS ELEMENT OF
12 DEMONSTRATING MEANINGFUL USE OF CERTIFIED EHR
13 TECHNOLOGY.—

14 (1) ELIGIBLE PROFESSIONALS.—Section
15 1848(o)(2)(A) of the Social Security Act (42 U.S.C.
16 1395w-4(o)(2)(A)) is amended—

17 (A) in clause (i), by striking “, which shall
18 include the use of electronic prescribing as de-
19 termined to be appropriate by the Secretary”;

20 (B) in clause (iii), by inserting “(other
21 than electronic prescribing quality measures)”
22 after “such other measures”; and

23 (C) by adding at the end the following new
24 sentence: “In no case shall an eligible profes-
25 sional be required to use (or demonstrate the
26 use of) electronic prescribing in order for such

1 professional to be treated as a meaningful EHR
2 user in accordance with this subparagraph.”.

3 (2) ELIGIBLE HOSPITALS.—Section
4 1886(n)(3)(A) of the Social Security Act (42 U.S.C.
5 1395ww(n)(3)(A)) is amended—

6 (A) in clause (iii), by inserting “(other
7 than electronic prescribing quality measures)”
8 after “such other measures”; and

9 (B) by adding at the end the following new
10 sentence: “In no case shall an eligible hospital
11 be required to use (or demonstrate the use of)
12 electronic prescribing in order for such hospital
13 to be treated as a meaningful EHR user in ac-
14 cordance with this subparagraph.”.

15 (3) EFFECTIVE DATE.—The amendments made
16 by paragraphs (1) and (2) shall apply with respect
17 to EHR reporting periods beginning after the date
18 of the enactment of this Act.

19 (c) EXCLUDING E-PRESCRIBING FROM SHARED SAV-
20 INGS PROGRAM REPORTING REQUIREMENTS.—Section
21 1899(b)(3)(D) of such Act (42 U.S.C. 1395jjj(b)(3)(D))
22 is amended—

23 (1) by striking “electronic prescribing,”; and

24 (2) inserting “(but not including such require-
25 ments and such payments related to electronic pre-

1 scribing)” after “other similar initiatives under sec-
2 tion 1848”.

3 (d) CONFORMING AMENDMENTS.—

4 (1) Subsection (a) of section 1848 of such Act
5 (42 U.S.C. 1395w-4) is amended—

6 (A) in paragraph (4)(A), by striking “, ex-
7 cept as provided in paragraph (5)”;

8 (B) in paragraph (7)(A)(ii)(I), by striking
9 “(or, in the case of an eligible professional who
10 was subject to the application of the payment
11 adjustment under section 1848(a)(5) for 2014,
12 98 percent)”;

13 (C) in paragraph (8)(A)(i), by striking
14 “paragraphs (3), (5), and (7)” and inserting
15 “paragraphs (3) and (7)”.

16 (2) Subsection (m) of such section is amend-
17 ed—

18 (A) in paragraph (2)(B), by striking “and
19 subsection (a)(5)” and by striking “(or, for
20 purposes of subsection (a)(5), for the reporting
21 period for a year)”;

22 (B) in paragraph (3)(B)(i), by striking
23 “and subsection (a)(5)” and by striking “(or,
24 for purposes of subsection (a)(5), for the re-
25 porting period for a year)”;

1 (C) in each of clauses (ii) and (iii) of para-
2 graph (3)(B), by striking “(or, for purposes of
3 subsection (a)(5), for the reporting period for a
4 year)”;

5 (D) in paragraph (3)(C), by striking “or,
6 for purposes of subsection (a)(5), for a report-
7 ing period for a year,”;

8 (E) in paragraph (5)(E)(iii), by striking “,
9 the limitation under paragraph (2)(B), and the
10 exception under subsection (a)(5)(B)” and in-
11 serting “and the limitation under paragraph
12 (2)(B)”;

13 (F) in paragraph (6)(C)(iii), by striking
14 “(a)(5)” and by striking “the reporting period
15 under subsection (a)(5)(D)(iii)”.

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