



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 16, 2015

S. 1347 **Electronic Health Fairness Act of 2015**

As ordered reported by the Senate Finance Committee on June 24, 2015

SUMMARY

Under current law, a physician or other professional may be subject to payment reductions for services furnished to Medicare beneficiaries if the provider fails to achieve “meaningful use” of electronic health record (EHR) technology. The meaningful use standard requires that at least half of the provider’s patient encounters occur in a setting that uses certified EHR technology. S. 1347 would temporarily exclude services furnished in an ambulatory surgical center (ASC) from being included in the count of patient encounters for the purpose of determining whether a provider achieves meaningful use of EHR technology.

CBO estimates that enacting S. 1347 would increase direct spending by \$15 million over the fiscal year 2016-2025 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. The legislation would not affect revenues.

S. 1347 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of enacting S. 1347 is shown in the following table. The costs of this legislation fall within budget function 570 (Medicare).

	By Fiscal Year, in Millions of Dollars											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2020	2016-2025
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	2	5	6	2	0	0	0	0	0	0	15	15
Estimated Outlays	2	5	6	2	0	0	0	0	0	0	15	15

BASIS OF ESTIMATE

S. 1347 would amend the criteria used to determine whether an eligible professional achieves meaningful use of EHR technology. For physicians who fail to achieve meaningful use in one year, Medicare’s payments for services furnished in the following year are reduced. Under current law, providers who fail to achieve meaningful use will be subject to a 2 percent reduction in Medicare payment rates in calendar year 2016 and a 3 percent reduction in 2017 and 2018. After 2018, providers will not be subject to a payment reduction based on meaningful use of EHR technology.

To qualify as a meaningful EHR user under current law, an eligible professional must conduct at least 50 percent of patient encounters at a place of service that is equipped with certified EHR technology. Many providers furnish services in more than one place of service (for example, a physician’s office, hospital outpatient department, or an ASC). S. 1347 would exclude services furnished at an ASC from being counted as patient encounters for the purpose of determining whether a provider satisfies the 50 percent threshold.

Very few ASCs currently have EHR technology. As a result, S. 1347 would make it easier for professionals who furnish some of their services in the ASC setting to qualify as meaningful users of EHR technology. Based on analysis of the extent to which physicians provide a share of services in ASCs, CBO estimates that enacting S. 1347 would enable almost 2,000 providers to avoid payment reductions that will average about \$2,000 in 2016 and about \$3,000 in both 2017 and 2018.

Enacting S. 1347 would affect the determination of meaningful use beginning with services furnished during 2015, and would affect payments beginning in 2016. As a result, CBO estimates that enacting S. 1347 would increase spending during calendar years 2016 through 2018 (fiscal years 2016 through 2019) by a total of \$15 million.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for S. 1347, the Electronic Health Fairness Act of 2015, as ordered reported by the Senate Committee on Finance on June 24, 2015

	By Fiscal Year, in Millions of Dollars												2015-	2015-
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2020	2025	
NET INCREASE IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	2	5	6	2	0	0	0	0	0	0	15	15	

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1347 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

PREVIOUS ESTIMATE:

On March 12, 2015, CBO provided a cost estimate for H.R. 887, as ordered reported by the House Ways and Means Committee on February 26, 2015. The two versions of the bill are almost identical, except that S. 1347 specifies that the change in meaningful use determination would go into effect after 2015, which would affect spending beginning in 2016. H.R. 887, by contrast, did not specify an effective date. CBO’s estimate for H.R. 887 anticipated that the change in spending would take effect in 2017—after a rulemaking process.

The estimated budgetary effects also differ because of changes in the Medicare Access and CHIP Reauthorization Act, enacted on April 16, 2015. That legislation eliminated payment adjustments for eligible professionals after payment year 2018 and increased payment rates for physicians’ services.

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