

114TH CONGRESS
2D SESSION

S. _____

To amend title XVIII of the Social Security Act to, for the 2016 EHR reporting period and, in the case of an eligible hospital, subsequent EHR reporting periods, provide for a 90-day EHR reporting period for the determination of whether an eligible professional or eligible hospital is a meaningful EHR user and to remove the all-or-nothing approach to meaningful use, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to, for the 2016 EHR reporting period and, in the case of an eligible hospital, subsequent EHR reporting periods, provide for a 90-day EHR reporting period for the determination of whether an eligible professional or eligible hospital is a meaningful EHR user and to remove the all-or-nothing approach to meaningful 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 “_____ Act of
3 2016”.

4 **SEC. 2. 90-DAY EHR REPORTING PERIOD FOR DETERMINA-**
5 **TION OF WHETHER AN ELIGIBLE PROFES-**
6 **SIONAL OR ELIGIBLE HOSPITAL IS A MEAN-**
7 **INGFUL EHR USER.**

8 (a) FOR AN ELIGIBLE PROFESSIONAL FOR THE 2016
9 EHR REPORTING PERIOD.—Section 1848(a)(7)(E)(ii) of
10 the Social Security Act (42 U.S.C. 1395w-4(a)(7)(E)(ii))
11 is amended by adding at the end the following new sen-
12 tence: “For 2018, such period (or periods) shall include
13 a 90 day EHR reporting period (or such longer period
14 that the eligible professional may elect).”.

15 (b) FOR AN ELIGIBLE HOSPITAL FOR THE 2016
16 EHR REPORTING PERIOD AND SUBSEQUENT REPORTING
17 PERIODS.—Section 1886(b)(3)(B)(ix)(IV) of the Social
18 Security Act (42 U.S.C. 1395ww(b)(3)(B)(ix)(IV)) is
19 amended by adding at the end the following new sentence:
20 “For fiscal year 2018 and subsequent fiscal years, such
21 period (or periods) shall include a 90 day EHR reporting
22 period (or such longer period that the subsection (d) hos-
23 pital may elect).”.

1 **SEC. 3. REMOVING THE ALL-OR-NOTHING APPROACH TO**
2 **MEANINGFUL USE.**

3 (a) FOR AN ELIGIBLE PROFESSIONAL FOR THE 2016
4 EHR REPORTING PERIOD.—Section 1848(o)(2) of the
5 Social Security Act (42 U.S.C. 1395w-4(o)(2)) is amend-
6 ed by adding at the end the following new subparagraph:

7 “(E) NO REQUIREMENT FOR 100 PERCENT
8 COMPLIANCE FOR ELIGIBLE PROFESSIONALS
9 FOR THE 2016 EHR REPORTING PERIOD.—In
10 applying clauses (i), (ii), and (iii) of subpara-
11 graph (A), the Secretary may determine that an
12 eligible professional is a meaningful EHR user
13 for the EHR reporting period for 2018 if such
14 eligible professional meets at least 75 percent
15 (as determined by the Secretary) of the objec-
16 tives and measures established by the Secretary
17 for each of such clauses.”.

18 (b) FOR AN ELIGIBLE HOSPITAL FOR THE 2016
19 EHR REPORTING PERIOD AND SUBSEQUENT REPORTING
20 PERIODS.—Section 1886(n)(3) of the Social Security Act
21 (42 U.S.C. 1395ww(n)(3)) is amended by adding at the
22 end the following new paragraph:

23 “(D) NO REQUIREMENT FOR 100 PERCENT
24 COMPLIANCE FOR ELIGIBLE HOSPITALS.—In
25 applying clauses (i), (ii), and (iii) of subpara-
26 graph (A), the Secretary may determine that an

1 eligible hospital is a meaningful EHR user for
2 the EHR reporting period for 2018 and subse-
3 quent EHR reporting periods if such eligible
4 hospital meets at least 75 percent (as deter-
5 mined by the Secretary) of the objectives and
6 measures established by the Secretary for each
7 of such clauses.”.

8 **SEC. 4. EXTENDING FLEXIBILITY IN APPLYING HARDSHIP**
9 **EXCEPTION FOR MEANINGFUL USE.**

10 (a) FOR AN ELIGIBLE PROFESSIONAL FOR THE 2016
11 EHR REPORTING PERIOD.—Section 1848(a)(7)(B) of the
12 Social Security Act (42 U.S.C. 1395w-4(a)(7)(B)) is
13 amended—

14 (1) by striking “EXCEPTION.—The Secretary”
15 and inserting “EXCEPTION.—

16 “(i) IN GENERAL.—The Secretary”;

17 (2) in the first sentence of clause (i), as added
18 by paragraph (1)—

19 (A) by striking “2017” and inserting
20 “each of 2017 and 2018”; and

21 (B) by striking “March 15, 2016” and in-
22 serting “the applicable date (as defined in
23 clause (ii))”; and

24 (3) by adding at the end the following new
25 clause:

1 “(ii) APPLICABLE DATE DEFINED.—

2 In this subparagraph, the term ‘applicable
3 date’ means—

4 “(I) with respect to the payment
5 adjustment under subparagraph (A)
6 for 2017, March 15, 2016; and

7 “(II) with respect to the payment
8 adjustment under subparagraph (A)
9 for 2018, March 15, 2017.”.

10 (b) FOR AN ELIGIBLE HOSPITAL FOR THE 2016 AND
11 2017 EHR REPORTING PERIODS.—Section
12 1886(b)(3)(B)(ix) of the Social Security Act (42 U.S.C.
13 1395ww(b)(3)(B)(ix)) is amended—

14 (1) in the first sentence of subclause (II)—

15 (A) by striking “fiscal year 2017” and in-
16 sserting “each of fiscal years 2017 through
17 2019”; and

18 (B) by striking “April 1, 2016” and insert-
19 ing “the applicable date (as defined in sub-
20 clause (V))”; and

21 (2) by adding at the end the following new sub-
22 clause:

23 “(V) For purposes of this clause, the term ‘applicable
24 date’ means—

1 “(aa) with respect to the payment reduction
2 under subclause (I) for fiscal year 2017, April 1,
3 2016;

4 “(bb) with respect to the payment reduction
5 under subclause (I) for fiscal year 2018, April 1,
6 2017; and

7 “(cc) with respect to the payment reduction
8 under subclause (I) for fiscal year 2019, April 1,
9 2018.”.