EHR Improvements Act
Summary
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Background:
The Health Information Technology for Economic and Clinical Health (*HITECH*) Act was created to stimulate the adoption of electronic health records in clinical and hospital settings. Under this law, eligible health professionals will be offered financial incentives for demonstrating "meaningful use" of electronic health records (EHR). Incentives will be offered until 2015, after which time penalties will be levied for failing to adhere to the program's requirements.

Basic Principles:
- **Reduce the regulatory burden for providers and patients**
- **Reduce cost per practice and complexities in establishing EHR**
- **Improve "quality" measurements by engaging provider-patient, not bureaucrats**
- **Tailor "meaningful use" requirements to better meet the needs of providers and patients**

Purpose:
The "EHR Improvements Act" removes these barriers to participation by focusing on the key issues that eligible physicians have said make it difficult to comply and hinder their ability provide high quality care for their patients. This bill specifically addresses the problems that physicians have addressed with CMS but have thus far- gone unanswered. EHR technology should be encouraged, but not without implementing these much needed reforms.

Problem:
- The new demands to meet meaningful use as part of the EHR Incentive Program require significant time to determine the appropriate EHR vendor, capital to make the investment, and significant staff resources to implement in practices and notify patients of the possible changes. A recent *Health Affairs* article estimated that the total first-year costs of for a five-physician practice to be $233,297, with average per-physician costs of $46,659. This is particularly difficult with smaller practices, and is an unattractive option for physicians in or near retirement that are not as inclined to make a long term investment in the practice.

Solution:
- The "EHR Improvements Act" creates a "hardship exemption" for small practices and physicians in and near retirement to avoid workforce shortage.

Problem:
- Centers for Medicare and Medicaid Services (CMS) states that for CY 2015 and subsequent years that the EHR reporting period for the penalty would continue to be the CY two years prior to the penalty. This two year look-back period unfairly accelerates the date by which physicians must meet meaningful use requirements to avoid penalties. Considering the vast amount of resources needed to make this investment, the two year

look-back period forces physicians to rush this important decision; potentially with a system that doesn't meet their needs; accept a damaging penalty for not making the investment.

- The two year look-back period starting in 2015 may also result in a physician participating in the Medicaid program to be penalized under the Medicare side of the program if not a meaningful user.

Solution:

- This legislation shortens the gap between the performance period and the application of the penalty to no more than one year. This allows eligible providers to make an informed decision based on the specific needs of their practices and the patients they serve.
- This bill also fixes the problem of simultaneously receiving a bonus and a penalty by prohibiting the application of the Medicare penalty to EPs who successfully participate in the first year of the Medicaid Incentive Program.

Problem:

- Another problem frequently discussed is meeting requirements that bureaucrats force physicians to report on so-called "quality" which has nothing to do with certain specialties, or measure quality of care. The cost of updating the information systems will prove to be incredibly costly for practices. Also, many of the EHR systems don't provide *real time* information. The maze of mandates and requirements within each reporting system is a huge disincentive for participation.

Solution:

- This bill expands the options for participation and improves quality measures by using specialty-led registries. The registries are designed by and for physicians and are tailored to meet the needs of their patients. The registries offer real time data log. Specialty-led registries offer these physicians the much needed autonomy to design their own quality measures, and would be compared to the care delivered by their peers and not an egregious standard made by bureaucrats in Washington.

Problem:

- Many rural health care providers are finding it extremely difficult to adopt electronic health records in their practices. Their patients will often go to a doctor or hospital closer to an urban setting with an EHR, but that information cannot be transmitted in their primary care setting closer to their home. This causes data lag and a growing participation gap among providers who care for patients living in rural areas.

Solution:

- This bill includes rural health clinics as "eligible professionals (EPs)" under the Incentive Program. This will increase participation among rural health care providers, and expand access to quality care for patients living in rural areas.

Problem:

- Physicians are faced with the threat of a penalty for not meeting meaningful use standards, but current law does not provide a sufficient appeals process. Physicians do

not have a safe-guard if CMS inappropriately applies a penalty, or there is a glitch in the technology that would cause disruption in their reports to CMS.

Solution:

- This bill instructs CMS to establish a formal appeals process before the application of the penalties.