

21ST CENTURY CURES ACT LESSENS EHR BURDENS ON PHYSICIANS PERFORMING CASES IN ASCS

The Cures Act addresses certain electronic health record ("EHR") difficulties faced by physicians who practice primarily in ambulatory surgery centers ("ASCs"). Section 16003 explicitly excludes physicians who furnish substantially all of their Medicare services at ASCs from the penalties imposed under various programs for failure to adopt a certified EHR.

Under the current Medicare Meaningful Use Program, and the subsequent Merit-Based Incentive Payment System ("MIPS"), physicians are required to conduct a threshold amount of patient encounters in a setting with certified EHR technology. Failure to comply results in penalties under the Meaningful Use Program and MIPS and therefore discourages physicians from furnishing care to Medicare beneficiaries in an ASC setting. The Cures Act acknowledges that a certified EHR for ASCs does not exist and provides the Department of Health and Human Services ("HHS") with the ability to approve a certified EHR for ASCs. Once the Secretary of HHS, in consultation with stakeholders, determines that a certified EHR is available for ASCs, ASCs will have three years to adopt and begin using the certified EHR, at which time the explicit exclusion contained in the Cures Act will end.

Practical Takeaways

- Until a certified EHR for ASCs is approved by HHS, physicians who furnish substantially all Medicare services at an ASC will not be subject to penalties that would otherwise be imposed.
- Physicians and ASCs who have comments regarding the adoption of a certified EHR should contact their applicable state association or their Hall Render attorney for further direction.

If you have any questions, or if you would like additional information on this topic, please contact:

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