

118TH CONGRESS
1ST SESSION

H. R. 3417

To ensure fair billing practices for items and services furnished by off-campus outpatient departments of a provider.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2023

Mr. HERN (for himself and Ms. KUSTER) 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 ensure fair billing practices for items and services furnished by off-campus outpatient departments of a provider.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Facilitating Account-
5 ability In Reimbursements Act” or the “FAIR Act”.

1 **SEC. 2. ENSURING FAIR BILLING PRACTICES FOR ITEMS**
2 **AND SERVICES FURNISHED BY OFF-CAMPUS**
3 **OUTPATIENT DEPARTMENTS OF A PROVIDER.**

4 (a) SEPARATE NPIS FOR OFF-CAMPUS OUTPATIENT
5 DEPARTMENTS OF A PROVIDER.—

6 (1) IN GENERAL.—Section 1173(b) of the So-
7 cial Security Act (42 U.S.C. 1320d–2(b)) is amend-
8 ed by adding at the end the following new para-
9 graph:

10 “(3) ENSURING SEPARATE NPIS FOR OFF-CAM-
11 PUS OUTPATIENT DEPARTMENTS OF A PROVIDER.—

12 The standards specified under paragraph (1) shall
13 ensure that, not later than January 1, 2025, each
14 off-campus outpatient department of a provider (as
15 defined in section 1833(t)(21)(B)) is assigned a sep-
16 arate unique health identifier from such provider.”.

17 (2) TREATMENT OF CERTAIN DEPARTMENTS AS
18 SUBPARTS OF A HOSPITAL.—Not later than January
19 1, 2025, the Secretary of Health and Human Serv-
20 ices shall revise sections 162.408 and 162.410 of
21 title 45, Code of Federal Regulations, to ensure that
22 each off-campus outpatient department of a provider
23 (as defined in section 1833(t)(21)(B) of the Social
24 Security Act (42 U.S.C. 1395l(t)(21)(B))) is treated
25 as a subpart (as described in such sections) of such
26 provider and assigned a unique health identifier pur-

1 suant to section 1173(b)(3) of such Act (as added
2 by paragraph (1)).

3 (b) OFF-CAMPUS DEPARTMENTS OF A PROVIDER
4 BILLING REQUIREMENTS.—

5 (1) MEDICARE.—

6 (A) IN GENERAL.—Section 1866(a)(1) of
7 the Social Security Act (42 U.S.C.
8 1395cc(a)(1)) is amended—

9 (i) in subparagraph (X), by striking
10 “and” at the end;

11 (ii) in subparagraph (Y)(ii)(V), by
12 striking the period and inserting “, and”;
13 and

14 (iii) by inserting after subparagraph
15 (Y) the following new subparagraph:

16 “(Z) in the case of a hospital with an off-cam-
17 pus outpatient department of a provider (as defined
18 in section 1833(t)(21)(B)), with respect to items
19 and services furnished at such department of a pro-
20 vider on or after January 1, 2025, to bill under this
21 title (including under part C of this title) for such
22 items and services using the unique health identifier
23 established for such department of a provider pursu-
24 ant to section 1173(b)(3) on a HIPAA X12 837P

1 transaction or CMS 1500 form (or a successor
2 transaction or form).”.

3 (B) COMPLIANCE REVIEWS.—In con-
4 ducting any regular reviews of off-campus out-
5 patient departments of a provider (as defined in
6 section 1833(t)(21)(B) of the Social Security
7 Act (42 U.S.C. 1395l(t)(21)(B))) for purposes
8 of determining whether such departments are
9 compliant with the requirements of section
10 413.65 of title 42, Code of Federal Regulations
11 (or any successor regulation), the Secretary of
12 Health and Human Services shall prioritize re-
13 viewing such departments that, prior to billing
14 for covered OPD services (as defined in section
15 1833(t) of such Act (42 U.S.C. 1395l(t)))
16 under part B of title XVIII of such Act (42
17 U.S.C. 1395j et seq.), were furnishing items
18 and services billed solely by individual practi-
19 tioners or group practices under such part and
20 that are not located in a rural area (as defined
21 in section 1886(d)(2)(D) of such Act (42
22 U.S.C. 1395ww(d)(2)(D))).

23 (2) OTHER PROVIDERS.—Part E of title XXVII
24 of the Public Health Service Act (42 U.S.C. 300gg–

1 131 et seq.) is amended by adding at the end the
2 following new section:

3 **“SEC. 2799B–10. BILLING REQUIREMENTS FOR OFF-CAMPUS**
4 **DEPARTMENTS OF A PROVIDER.**

5 “A health care provider may not, with respect to
6 items and services furnished to an individual at an off-
7 campus outpatient department of a provider (as defined
8 in section 1833(t)(21)(B) of the Social Security Act), sub-
9 mit a claim for such items and services to a group health
10 plan or health insurance issuer, and may not hold such
11 individual liable for such items and services, unless such
12 items and services are billed—

13 “(1) using the separate unique health identifier
14 established for such department pursuant to section
15 1173(b)(3) of such Act; and

16 “(2) on a HIPAA X12 837P transaction or
17 CMS 1500 form (or a successor transaction or
18 form).”.

19 (3) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall apply with respect to claims
21 submitted for items and services furnished on or
22 after January 1, 2025.

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