

109TH CONGRESS
2^D SESSION

S. 3846

To provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 2006

Mr. CARPER (for himself and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employees
5 Electronic Personal Health Records Act of 2006”.

1 **SEC. 2. ELECTRONIC PERSONAL HEALTH RECORDS FOR**
2 **FEDERAL EMPLOYEE HEALTH BENEFITS**
3 **PLANS.**

4 (a) CONTRACT REQUIREMENT.—Section 8902 of title
5 5, United States Code, is amended by adding at the end
6 the following:

7 “(p) Each contract under this chapter shall require
8 the carrier to provide for the establishment and mainte-
9 nance of electronic personal health records in accordance
10 with section 8915.”.

11 (b) ELECTRONIC PERSONAL HEALTH RECORDS.—
12 Chapter 89 of title 5, United States Code, is amended by
13 adding after section 8914 the following:

14 **“§ 8915. Electronic personal health records**

15 “(a) In this section, the term—

16 “(1) ‘claims data’ means—

17 “(A) a comprehensive record of health care
18 services provided to an individual, including
19 prescriptions; and

20 “(B) contact information for providers of
21 health care services; and

22 “(2) ‘standard electronic format’ means a for-
23 mat that—

24 “(A) uses open electronic standards;

1 “(B) enables health information technology
2 to be used for the collection of clinically specific
3 data;

4 “(C) promotes the interoperability of
5 health care information across health care set-
6 tings, including reporting under this section
7 and to other Federal agencies;

8 “(D) facilitates clinical decision support;

9 “(E) is useful for diagnosis and treatment
10 and is understandable for the individual or fam-
11 ily member; and

12 “(F) is based on the Federal messaging
13 and health vocabulary standards—

14 “(i) developed by the Consolidated
15 Health Informatics Initiative; or

16 “(ii) developed and endorsed by the
17 Office of the National Coordinator for
18 Health Information Technology, the Amer-
19 ican Health Information Community, or
20 the Secretary of Health and Human Serv-
21 ices.

22 “(b)(1) Each carrier entering into a contract for a
23 health benefits plan under section 8915 shall provide for
24 the establishment and maintenance of electronic personal
25 health records for each individual and family member en-

1 rolled in that health benefits plan in accordance with this
2 section.

3 “(2) In the administration of this section, the Office
4 of Personnel Management—

5 “(A) shall ensure that each individual and fam-
6 ily member is provided—

7 “(i) timely notice of the establishment and
8 maintenance of electronic personal health
9 records; and

10 “(ii) an opportunity to file an election at
11 any time to—

12 “(I) not participate in the establish-
13 ment or maintenance of an electronic per-
14 sonal health record for that individual or
15 family member; and

16 “(II) in the case of an electronic per-
17 sonal health record that is established
18 under this section, terminate that elec-
19 tronic personal health record;

20 “(B) shall ensure that each electronic personal
21 health record shall—

22 “(i) be based on standard electronic for-
23 mats;

24 “(ii) be available for electronic access
25 through the Internet for the use of the indi-

1 individual or family member to whom the record
2 applies;

3 “(iii) enable the individual or family mem-
4 ber to—

5 “(I) share any contents of the elec-
6 tronic personal health record through
7 transmission in standard electronic format,
8 fax transmission, or other additional
9 means to providers of health care services
10 or other persons;

11 “(II) copy or print any contents of the
12 electronic personal health record; and

13 “(III) add supplementary health infor-
14 mation, such as information relating to—

15 “(aa) personal, medical, and
16 emergency contacts;

17 “(bb) laboratory tests;

18 “(cc) social history;

19 “(dd) health conditions;

20 “(ee) allergies;

21 “(ff) dental services;

22 “(gg) immunizations;

23 “(hh) prescriptions;

24 “(ii) family health history;

25 “(jj) alternative treatments;

- 1 “(kk) appointments; and
- 2 “(ll) any additional information
- 3 as needed;
- 4 “(iv) contain—
- 5 “(I) claims data from—
- 6 “(aa) providers of health care
- 7 services that participate in health ben-
- 8 efits plans under this chapter;
- 9 “(bb) to the extent feasible, other
- 10 providers of health care services; and
- 11 “(cc) to the extent feasible, other
- 12 health benefits plans in which the in-
- 13 dividual or family members have par-
- 14 ticipated;
- 15 “(II) clinical care, pharmaceutical,
- 16 and laboratory records; and
- 17 “(III) the name of the source for each
- 18 item of health information;
- 19 “(v) authenticate the identity of each indi-
- 20 vidual upon accessing the electronic personal
- 21 health record; and
- 22 “(vi) contain an audit trail to list the iden-
- 23 tity of individuals who access the electronic per-
- 24 sonal health record; and

1 “(C) shall ensure that the individual or family
2 member may designate—

3 “(i) any other individual to access and ex-
4 ercise control over the sharing of the electronic
5 personal health record; and

6 “(ii) any other individual to access the
7 electronic personal health record in an emer-
8 gency;

9 “(D) shall require each health benefits plan to
10 comply with all privacy and security regulations pro-
11 mulgated under section 246(c) of the Health Insur-
12 ance Portability and Accountability Act of 1996 (42
13 U.S.C. 1320d–2) and other relevant laws relating to
14 privacy and security;

15 “(E) shall require each carrier that enters into
16 a contract for a health benefits plan to provide for
17 the electronic transfer of the contents of an elec-
18 tronic personal health record to another electronic
19 personal health record under a different health bene-
20 fits plan maintained under this section or a similar
21 record not maintained under this section if—

22 “(i) coverage in a health benefits plan
23 under this chapter for an individual or family
24 member terminates; and

1 “(ii) that individual or family member
2 elects such a transfer;

3 “(F) shall require each carrier to provide for
4 education, awareness, and training on electronic per-
5 sonal health records for individuals and family mem-
6 bers enrolled in health benefits plans; and

7 “(G) may require each carrier to provide for an
8 electronic personal health record to be made avail-
9 able for electronic access, other than through the
10 Internet, for the use of the individual or family
11 member to whom the record applies, if that indi-
12 vidual or family member requests such access.”.

13 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—
14 The table of sections for chapter 89 of title 5, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

 “Sec. 8915. Electronic personal health records.”.

17 **SEC. 3. EFFECTIVE DATES AND APPLICATION.**

18 (a) **IN GENERAL.**—Except as provided under sub-
19 section (b), the amendments made by this Act shall take
20 effect 30 days after the date of enactment of this Act.

21 (b) **ESTABLISHMENT AND MAINTENANCE OF ELEC-**
22 **TRONIC PERSONAL HEALTH RECORDS.**—The requirement
23 for the establishment and maintenance of electronic per-
24 sonal health records under sections 8902(p) and 8915 of
25 title 5, United States Code (as added by this Act), shall

1 apply with respect to contracts for health benefits plans
2 under chapter 89 of that title which take effect on and
3 after January of the earlier of—

4 (1) the first calendar year following 2 years
5 after the date of enactment of this Act; or

6 (2) any calendar year determined by the Office
7 of Personnel Management.

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