



The Hon. Pedro R. Pierluisi  
Statement for the Record  
Hearing on “Health Information Technology: Using it to Improve Care”  
Senate Committee on Finance  
*July 24, 2013*

Chairman Baucus and Ranking Member Hatch:

I submit this statement for the record to respectfully urge the Finance Committee to include the language of H.R. 1379, *the Puerto Rico Hospital HITECH Amendments Act of 2013*, which has 13 bipartisan cosponsors, in an appropriate legislative vehicle this session. Senator Robert Menendez, a member of the Committee, has introduced identical legislation in this chamber, S. 636, which has been cosponsored by Senator Marco Rubio. An earlier version of the legislation, which I introduced in the 111<sup>th</sup> Congress, was endorsed by the American Hospital Association via letter to Chairman Baucus on September 27, 2010.

H.R. 1379/S. 636 would correct an oversight in the Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as part of the American Recovery and Reinvestment Act in February 2009. As you know, the goal of the HITECH Act is to encourage doctors and hospitals to use electronic health records, which can improve patient care, curb medical errors, and reduce health care delivery costs. To promote the adoption of electronic health records, the HITECH Act authorizes bonus payments under Medicare and Medicaid for eligible doctors and hospitals that become “meaningful users” of electronic health records. The Medicare incentive program consists of both “carrots” and “sticks”; physicians and hospitals will be penalized if they fail to adopt electronic health records by a certain date.

Unfortunately, the HITECH Act omitted Puerto Rico hospitals from the Medicare incentive program. This exclusion appears to have been inadvertent, since the bill makes Island physicians eligible for both the Medicare and Medicaid bonus payments and makes Island hospitals eligible for the Medicaid bonus payments.

There is no principled basis to exclude Puerto Rico hospitals from the Medicare component of the HITECH Act and this exclusion will significantly hamper efforts to adopt electronic health records—and thereby improve patient care and reduce delivery costs—on the Island. H.R. 1379/S.636 would amend the HITECH Act to treat Puerto Rico hospitals like hospitals in the States, making them eligible for Medicare bonus payments if they become meaningful users of electronic health records and subjecting them to penalties—in the form of reduced Medicare reimbursement rates—if they fail to do so by a certain date.

To be clear, Puerto Rico hospitals are not seeking preferential or special treatment. They are simply seeking fair and equal treatment. This bill would ensure they receive the same bonus payments as

hospital in the States for adopting electronic health records, which have been shown to improve patient care.

Rectifying this oversight through legislation would involve only minimal outlays. CMS's final rule on the electronic health records incentive program provided both a low-scenario and a high-scenario cost estimate, representing low and high rates of demonstration of meaningful use. For the Medicare hospital component of the Act, the low-scenario is \$6.7 billion in federal spending and the high-scenario is \$10.7 billion. CBO has provided a preliminary estimate that amending the HITECH Act to include Puerto Rico hospitals would cost an average of only \$10 million a year, an extraordinarily modest amount in light of the overall cost of the HITECH Act initiative.

To account for the passage of time between enactment of the HITECH Act and the inclusion of Puerto Rico hospitals in the Medicare component of the Act, H.R. 1379/S. 636 provides Puerto Rico hospitals with roughly the same amount of time to come into compliance as stateside hospitals were provided under the original HITECH Act and its implementing regulations. The bill was drafted with technical assistance from CMS.

Thank you.