

AMENDMENT TO THE RULES COMMITTEE PRINT

115-10

OFFERED BY MR. DENT OF PENNSYLVANIA

Add at the end of the bill the following (and conform the table of contents accordingly):

1 **SEC. 11. PROTECTION FOR EMERGENCY AND RELATED**
2 **SERVICES FURNISHED PURSUANT TO**
3 **EMTALA.**

4 Section 224(g) of the Public Health Service Act
5 (42U.S.C. 233(g)) is amended—

6 (1) In paragraph (4), by striking “An entity”
7 and inserting “Subject to paragraph (6), an entity”;
8 and

9 (2) by adding at the end the following:

10 “(6)(A) For purposes of this section—

11 “(i) an entity described in subparagraph
12 (B) shall be considered to be an entity de-
13 scribed in paragraph (4); and

14 “(ii) the provisions of this section shall
15 apply to an entity described in subparagraph
16 (B) in the same manner as such provisions
17 apply to an entity described in paragraph (4),
18 except that—

1 “(I) notwithstanding paragraph
2 (1)(B), the deeming of any entity described
3 in subparagraph (B), or of an officer, gov-
4 erning board member, employee, con-
5 tractor, or on-call provider of such an enti-
6 ty, to be an employee of the Public Health
7 Service for purposes of this section shall
8 apply only with respect to items and serv-
9 ices that are furnished to an individual
10 pursuant to section 1867 of the Social Se-
11 curity Act and to post stabilization services
12 (as defined in subparagraph (D)) furnished
13 to such an individual;

14 “(II) nothing in paragraph (1)(D)
15 shall be construed as preventing a physi-
16 cian or physician group described in sub-
17 paragraph (B)(ii) from making the appli-
18 cation referred to in such paragraph or as
19 conditioning the deeming of a physician or
20 physician group that makes such an appli-
21 cation upon receipt by the Secretary of an
22 application from the hospital or emergency
23 department that employs or contracts with
24 the physician or group, or enlists the phy-

1 sician or physician group as an on-call pro-
2 vider;

3 “(III) notwithstanding paragraph (3),
4 this paragraph shall apply only with re-
5 spect to causes of action arising from acts
6 or omissions that occur on or after Janu-
7 ary 1, 2017;

8 “(IV) paragraph (5) shall not apply to
9 a physician or physician group described in
10 subparagraph (B)(ii);

11 “(V) the Attorney General, in con-
12 sultation with the Secretary, shall make
13 separate estimates under subsection (k)(1)
14 with respect to entities described in sub-
15 paragraph (B) and entities described in
16 paragraph (4) (other than those described
17 in subparagraph (B)), and the Secretary
18 shall establish separate funds under sub-
19 section (k)(2) with respect to such groups
20 of entities, and any appropriations under
21 this subsection for entities described in
22 subparagraph (B) shall be separate from
23 the amounts authorized by subsection
24 (k)(2);

1 “(VI) notwithstanding subsection
2 (k)(2), the amount of the fund established
3 by the Secretary under such subsection
4 with respect to entities described in sub-
5 paragraph (B) may exceed a total of
6 \$10,000,000 for a fiscal year; and

7 “(VII) subsection (m) shall not apply
8 to entities described in subparagraph (B).

9 “(B) An entity described in this subparagraph
10 is—

11 “(i) a hospital or an emergency depart-
12 ment to which section 1867 of the Social Secu-
13 rity Act applies; and

14 “(ii) a physician or physician group that is
15 employed by, is under contract with, or is an
16 on-call provider of such hospital or emergency
17 department, to furnish items and services to in-
18 dividuals under such section.

19 “(C) For purposes of this paragraph, the term
20 ‘on-call provider’ means a physician or physician
21 group that—

22 “(i) has full, temporary, or locum tenens
23 staff privileges at a hospital or emergency de-
24 partment to which section 1867 of the Social
25 Security Act applies; and

1 “(ii) is not employed by or under contract
2 with such hospital or emergency department,
3 but agrees to be ready and available to provide
4 services pursuant to section 1867 of the Social
5 Security Act or post stabilization services to in-
6 dividuals being treated in the hospital or emer-
7 gency department with or without compensation
8 from the hospital or emergency department.

9 “(D) For purposes of this paragraph, the term
10 ‘post stabilization services’ means, with respect to an
11 individual who has been treated by an entity de-
12 scribed in subparagraph (B) for purposes of com-
13 plying with section 1867 of the Social Security Act,
14 services that are related to the condition that was so
15 treated and provided after the individual is stabilized
16 in order to maintain the stabilized condition or to
17 improve or resolve the condition of the individual.

18 “(E)(i) Nothing in this paragraph (or in any
19 other provision of this section as such provision ap-
20 plies to entities described in subparagraph (B) by
21 operation of subparagraph (A)) shall be construed as
22 authorizing or requiring the Secretary to make pay-
23 ments to such entities, the budget authority for
24 which is not provided in advance by appropriation
25 Acts.

1 “(ii) The Secretary shall limit the total amount
2 of payments under this paragraph for a fiscal year
3 to the total amount appropriated in advance by ap-
4 propriation Acts for such purpose for such fiscal
5 year. If the total amount of payments that would
6 otherwise be made under this paragraph for a fiscal
7 year exceeds such total amount appropriated, the
8 Secretary shall take such steps as may be necessary
9 to ensure that the total amount of payments under
10 this paragraph for such fiscal year does not exceed
11 such total amount appropriated.”.

