

114TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to preserve Medicare beneficiary access to ventilators, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend title XVIII of the Social Security Act to preserve Medicare beneficiary access to ventilators, 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 “Beneficiary Res-  
5 piratory Equipment Access and Transparency to Home  
6 Ventilator Care Act of 2016” or the “BREATH Act of  
7 2016”.

1 **SEC. 2. PROMOTING EVIDENCE-BASED CARE FOR CERTAIN**  
2 **VENTILATORS AND OTHER ITEMS OF DURA-**  
3 **BLE MEDICAL EQUIPMENT.**

4 Section 1834(a) of the Social Security Act (42 U.S.C.  
5 1395(m)) is amended by adding at the end the following  
6 new subsection:

7 “(t) APPROPRIATE USE CRITERIA FOR CERTAIN  
8 VENTILATORS.—Not later than January 1, 2017, and in  
9 consultation with medical experts, the Secretary shall es-  
10 tablish policies and standards for determining the appro-  
11 priate use of ventilators as described in subsection  
12 (a)(3)(A).”.

13 **SEC. 3. REIMBURSEMENT FOR HOME MECHANICAL VEN-**  
14 **TILATORS.**

15 (a) IN GENERAL.—Section 1834(a)(3) of the Social  
16 Security Act (42 U.S.C. 1395m(a)(3)) is amended—

17 (1) in subparagraph (B)—

18 (A) in clause (iii), by striking “and” at the  
19 end;

20 (B) in clause (iv)—

21 (i) by inserting “, except as provided  
22 in clause (v),” after “subsequent year”;  
23 and

24 (ii) by striking the period at the end  
25 and inserting “; and”; and

1 (C) by adding at the end the following new  
2 clause:

3 “(v) in 2017 and each subsequent  
4 year, in the case of a ventilator described  
5 in subparagraph (A), the payment rate de-  
6 termined for the ventilator under subpara-  
7 graph (D) for that year.”; and

8 (2) by adding at the end the following new sub-  
9 paragraph:

10 “(D) PAYMENT RATES FOR VENTILA-  
11 TORS.—For purposes of subparagraph (B)(v),  
12 payment for a ventilator described in subpara-  
13 graph (A) shall be made as follows:

14 “(i) 2017 PAYMENT RATE.—For  
15 2017, at a rate equal to 120 percent of the  
16 rate determined under subparagraph (B)  
17 for 2016, increased by the covered item  
18 update for the year.

19 “(ii) 2018 PAYMENT RATE.—For  
20 2018, at the rate determined under this  
21 subparagraph for 2017—

22 “(I) increased by the covered  
23 item update for the year;

1                   “(II) increased or decreased, ex-  
2                   pressed as a percentage, by the dif-  
3                   ference between—

4                   “(aa) the absolute percent-  
5                   age difference in the number of  
6                   beneficiaries for whom the pro-  
7                   gram made payment for the rent-  
8                   al of such item or device during  
9                   2017 and the number of bene-  
10                  ficiaries for whom the program  
11                  made payment for the rental of  
12                  the item or device during 2015;  
13                  and

14                  “(bb) 20 percent; and

15                  “(III) increased or decreased by  
16                  the percentage change in the total  
17                  number of Medicare beneficiaries in  
18                  2015 as compared to 2017.

19                  “(iii) 2019 AND SUBSEQUENT YEARS  
20                  PAYMENT RATE.—For 2019 and subse-  
21                  quent years, at the rate determined under  
22                  this subparagraph for the previous year in-  
23                  creased by the covered item update for the  
24                  year.”.

1           (b) APPLICATION.—The Secretary shall implement  
2 the provisions of, and amendments made by, this section  
3 in a budget neutral manner and any such budget neu-  
4 trality adjustment shall be limited to payments for a venti-  
5 lator described in section 1834(a)(3)(A) of the Social Se-  
6 curity Act (42 U.S.C. 1395m(a)(3)(A)).