

# H. R. 6012

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 HOUSE OF REPRESENTATIVES  
September 13, 2016

Mr. Bucshon 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

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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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Short title.

This Act may be cited as the “Beneficiary Respiratory Equipment Access and Transparency to Home Ventilator Care Act of 2016” or the “BREATH Act of 2016”.

SEC. 2. Promoting evidence-based care for certain ventilators and other items of durable medical equipment.

Section 1834(a) of the Social Security Act ([42 U.S.C. 1395\(m\)](#)) is amended by adding at the end the following new subsection:

“(t) Appropriate use criteria for certain ventilators.—Not later than January 1, 2017, and in consultation with medical experts, the Secretary shall establish policies and standards for determining the appropriate use of ventilators as described in subsection (a)(3)(A).”.

SEC. 3. Reimbursement for home mechanical ventilators.

(a) In general.—Section 1834(a)(3) of the Social Security Act ([42 U.S.C. 1395m\(a\)\(3\)](#)) is amended—

(1) in subparagraph (B)—

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

(B) in clause (iv)—

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

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

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

“(v) in 2017 and each subsequent year, in the case of a ventilator described in subparagraph (A), the payment rate determined for the ventilator under subparagraph (D) for that year.”; and

(2) by adding at the end the following new subparagraph:

“(D) PAYMENT RATES FOR VENTILATORS.—For purposes of subparagraph (B)(v), payment for a ventilator described in subparagraph (A) shall be made as follows:

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

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

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

“(II) increased or decreased, expressed as a percentage, by the difference between—

“(aa) the absolute percentage difference in the number of beneficiaries for whom the program made payment for the rental of such item or device during 2017 and the number of beneficiaries for whom the program made payment for the rental of the item or device during 2015; and

“(bb) 20 percent; and

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

“(iii) 2019 AND SUBSEQUENT YEARS PAYMENT RATE.—For 2019 and subsequent years, at the rate determined under this subparagraph for the previous year increased by the covered item update for the year.”.

(b) Application.—The Secretary shall implement the provisions of, and amendments made by, this section in a budget neutral manner.