118TH CONGRESS  
2D SESSION  

S. ______  

To amend title XVIII of the Social Security Act to improve the payment method for oxygen and oxygen related equipment, supplies, and services, to increase beneficiary access to oxygen and oxygen related equipment, supplies, and services, and for other purposes. 

IN THE SENATE OF THE UNITED STATES  

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on ______.  

A BILL  

To amend title XVIII of the Social Security Act to improve the payment method for oxygen and oxygen related equipment, supplies, and services, to increase beneficiary access to oxygen and oxygen related equipment, supplies, and services, 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; TABLE OF CONTENTS.  

4 (a) Short Title.—This Act may be cited as the “Supplemental Oxygen Access Reform Act of 2024” or the “SOAR Act of 2024”.  

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROTECT BENEFICIARY ACCESS TO SUPPLEMENTAL OXYGEN THERAPY IN THE HOME AND COMMUNITY

Sec. 101. Reform of the Medicare supplemental oxygen benefit.
Sec. 102. Establishment of supplemental oxygen responsibilities criteria.
Sec. 103. Technical corrections.

TITLE II—PROTECTING BENEFICIARY ACCESS TO RESPIRATORY THERAPISTS

Sec. 201. Reimbursement for respiratory therapists.

TITLE III—ADOPTION OF ELECTRONIC TEMPLATES

Sec. 301. Use of electronic templates to document medical necessity and restoring clinical inference for oxygen and oxygen related equipment, supplies, and services

TITLE IV—ESTABLISHMENT OF BENEFICIARY RIGHTS

Sec. 401. Establishing protections for individuals receiving oxygen or oxygen related equipment, supplies, or services.

TITLE I—PROTECT BENEFICIARY ACCESS TO SUPPLEMENTAL OXYGEN THERAPY IN THE HOME AND COMMUNITY

SEC. 101. REFORM OF THE MEDICARE SUPPLEMENTAL OXYGEN BENEFIT.

(a) Removing Oxygen and Oxygen Related Equipment, Supplies, and Services From Competitive Acquisition Program to Improve Patient Access to Supplemental Oxygen Therapy.—Section 1847(a)(3) of the Social Security Act (42 U.S.C. 1395w–3(a)(3)) is amended by—
(1) inserting “AND EXCLUSION” after “EXCEPTION AUTHORITY”;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses as so redesignated 2 ems to the right;

(3) by striking “In carrying out” and inserting the following:

“(A) IN GENERAL.—In carrying out”;

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

“(B) EXCLUSION OF OXYGEN, AND OXYGEN RELATED EQUIPMENT, SUPPLIES, AND SERVICES.—Beginning on or after January 1, 2025, the Secretary shall exclude oxygen and oxygen related equipment, supplies, and services from the competitive acquisition program under this section and payment for oxygen and oxygen related equipment, supplies, and services shall be made as prescribed under subparagraphs (E), (F), and (H) of section 1834(a)(9).”.

(b) ESTABLISHING ADEQUATE PAYMENT FOR OXYGEN AND OXYGEN RELATED EQUIPMENT, SUPPLIES, AND SERVICES.—Section 1834(a)(9) of the Social Security Act (42 U.S.C. 1395m(a)(9)) is amended—
(1) in the first sentence of the matter preceding subparagraph (A), by inserting the following before the period: “(for oxygen and oxygen equipment furnished before January 1, 2025) or the amount determined under subparagraph (E), subject to subparagraphs (F), (G), and (H) (for oxygen and oxygen related equipment, supplies, and services furnished on or after January 1, 2025);”; and

(2) by adding at the end the following:

“(E) PAYMENT FOR OXYGEN AND OXYGEN RELATED EQUIPMENT, SUPPLIES, AND SERVICES EXCLUDED FROM COMPETITIVE ACQUISITION PROGRAM.—Subject to subparagraphs (F), (G), and (H) in the case of oxygen and oxygen related equipment, supplies, and services furnished on or after January 1, 2025,—

“(i) in areas that are competitive bidding areas in which a competitive bidding program is implemented for other covered items, the payment amount is equal to—

“(I) for 2025, the fee schedule amounts for the area for items and services in effect on December 31, 2024; and
“(II) for each subsequent year, the amount determined under this clause for the preceding year, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending on December 31 of the previous year;

“(ii) in rural areas and non-contiguous areas (Alaska, Hawaii, and U.S. territories), the payment amount is equal to—

“(I) 50 percent of 110 percent of the national average price for the item or service determined under section 414.210 (g)(1)(ii) of title 42, Code of Federal Regulations; and

“(II) 50 percent of—

“(aa) for 2025, the fee schedule amount for the area in effect on December 31, 2024; and

“(bb) for each subsequent year, the amount determined under this subclause for the pre-
ceding year, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending on December 31 of the previous year; and

“(iii) in areas other than those described in clauses (i) and (ii), the payment amount is equal to the sum of 75 percent of the adjusted payment amount established under clause (i) and 25 percent of the unadjusted fee schedule amount otherwise determined without taking into account this subparagraph.

“(F) SPECIAL RULE FOR LIQUID OXYGEN.—

“(i) PAYMENT.—

“(I) IN GENERAL.—In lieu of the volume adjustment established under paragraph (5)(C), not later than January 1, 2025, the Secretary in consultation with suppliers, manufacturers, patients and patient advocates, and physicians, and through notice-
and-comment rulemaking, shall establish a separate payment amount that meets the requirements of this subparagraph made to a supplier for the provision of liquid oxygen and liquid oxygen related equipment, supplies, and services that meets the requirements described in subparagraph (G).

“(II) Payment Floor.—The payment amount established under subclause (I) may not be less than an amount equal to 200 percent of the 2015 Durable Medical Equipment, Prosthetics/Orthotics & Supplies Fee Schedule updated by the consumer price index for all urban consumers (United States city average) for years 2016 through 2024.

“(III) Update Mechanism.—Beginning on January 1, 2026, the payment amount described in subclause (I) shall be increased annually by the projected percentage increase in the consumer price index for all urban consumers (United States city average) for years 2016 through 2024.
average) for the 12-month period ending December 31 of the previous year.

“(ii) CONSIDERATIONS.—In implementing the payment amount under this subparagraph, the Secretary shall take into account the cost of liquid oxygen on a per pound basis, the cost of liquid oxygen equipment, the infrastructure costs associated with providing liquid oxygen equipment and supplies (including labor, storage, transportation, maintenance, and similar costs), the cost of complying with Federal and State regulations specific to the delivery and transportation of liquid oxygen, and any other cost factors the Secretary deems appropriate after consulting with stakeholders such as suppliers, providers, patients and patient advocates, and manufacturers.

“(iii) MONTHLY ADD-ON FOR HIGH-FLOW PATIENTS.—

“(I) IN GENERAL.—Subject to subclause (II), the Secretary shall establish a non-budget neutral add-on to the payment amount under clause (i)
when the prescribing practitioner orders an oxygen flow rate equal to or greater than 6 liters per minute.

“(II) ADD-ON AMOUNT.—The add-on amount shall equal the per pound cost of the oxygen exceeding the amount required to provide a liter flow that is equal to or greater than 6 liters per minute.

“(iv) PERIODIC ASSESSMENT OF THE BASE RATE.—The Secretary shall assess at least once every 3 years the adequacy of the payment amounts under this subparagraph on a cost-related basis or other economical and equitable basis.

“(v) TRANSITIONAL INTERIM PAYMENT.—

“(I) IN GENERAL.—For items and services furnished on or after the date of the enactment of the SOAR Act of 2024 and prior to the implementation of the payment amount established under this subparagraph, the Secretary shall adopt a transitional interim payment amount for
liquid oxygen, and liquid oxygen equipment, supplies, and services in an amount equal to 200 percent of the 2015 Durable Medical Equipment, Prosthetics/Orthotics & Supplies Fee Schedule updated by the consumer price index for all urban consumers (United States city average) for years 2016 through 2024.

“(II) UPDATE.—This amount shall be updated annually by the projected percentage change in the consumer price index for all urban consumers (United States city average) for the 12-month period ending on December 31 of the previous year, until the Secretary implements the payment amount under this subparagraph.

“(vi) COVERAGE CRITERIA.—

“(I) IN GENERAL.—Not later than January 1, 2025, the Secretary, in consultation with stakeholders, shall establish objective clinical criteria for the coverage of liquid oxygen,
and liquid oxygen equipment, supplies, and services under this title.

“(II) Update of criteria.—The Secretary shall review and update the coverage standards under this clause every 5 years to ensure the standards take into consideration current medical and clinical guidelines and take into effect modality in order to maximize beneficiary independence.”.

SEC. 102. ESTABLISHMENT OF SUPPLEMENTAL OXYGEN RESPONSIBILITIES CRITERIA.

(a) In general.—1834(a)(9) of the Social Security Act (42 U.S.C. 1395m(a)(9)), as amended by section 101(b), is further amended by inserting the following new subparagraph:

“(G) Oxygen and oxygen related equipment, supplies, and services.—In consultation with stakeholders, the Secretary shall define the scope of services a supplier of oxygen and oxygen related equipment, supplies, and services must provide to receive payment under this part, to include—
“(i) conducting an initial evaluation of the beneficiary using the uniform oxygen patient evaluation form described in paragraph (5)(G) to determine the appropriate use of oxygen and oxygen related equipment, supplies, and services by the beneficiary, including the use of portable equipment;

“(ii) ensuring the beneficiary has appropriate access to portable oxygen, and portable oxygen equipment, supplies, and services based on the mobility needs of the beneficiary, including the needs of the beneficiary outside the home of the beneficiary;

“(iii) providing written and verbal beneficiary and caregiver education regarding oxygen and oxygen related equipment, supplies, and services, stationary and portable options, and oxygen safety, which includes evaluating the environment of the beneficiary for safety risks or hazards, such as fire and fall hazards;

“(iv) providing appropriate delivery, set-up, and coordination of oxygen services
(including the delivery of any oxygen equipment or supplies to a beneficiary prior to such beneficiary being discharged, delivering such equipment, and setting up the equipment), as needed, in a timely manner as agreed upon by the beneficiary or caregiver, supplier, and prescribing practitioner;

“(v) evaluating the ability of the beneficiary to operate the equipment safely and effectively;

“(vi) providing infection control information and instructions about all equipment and supplies;

“(vii) providing equipment-related services, including checking oxygen system purity levels and flow rates, changing and cleaning filters, and assuring the integrity of alarms and back-up systems, consistent with the manufacturer specifications and in accordance with all Federal, State, and local laws and regulations;

“(viii) monitoring visits when necessary by appropriate personnel, including a respiratory therapist to evaluate all as-
pects of the services being provided to the beneficiary by the provider;

“(ix) documenting exception reporting by the supplier to the prescribing physician when changes occur in the compliance of the beneficiary with the beneficiary’s plan of care;

“(x) providing, as needed, continued education to the beneficiary or caregiver regarding appropriate oxygen equipment maintenance practices and performance;

“(xi) providing, as prescribed by the plan of care of the prescribing practitioner, appropriate oxygen and oxygen related equipment, supplies, and services (including supplemental supplies and emergency oxygen back-ups as appropriate);

“(xii) ensuring oxygen and oxygen equipment can be used appropriately outside the home of a beneficiary based on necessity;

“(xiii) providing 24-hour on-call coverage to respond to beneficiary needs relating to oxygen and oxygen related equipment, supplies, and services; and
“(xiv) assisting the beneficiary with the coordination of oxygen and oxygen related equipment, supplies, and services, including by assisting the beneficiary find a different supplier if the beneficiary temporarily travels outside of the service area of the supplier. If the beneficiary relocates permanently, the new supplier caring for the beneficiary will assume responsibility for billing the Medicare program directly.”.

(b) Effective Date.—The amendment made by this section shall take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 103. TECHNICAL CORRECTIONS.

Section 1861(n) is amended by striking “iron lungs, oxygen tents” and inserting “oxygen and oxygen related equipment, supplies, and services”.

TITLE II—PROTECTING BENEFICIARY ACCESS TO RESPIRATORY THERAPISTS

SEC. 201. REIMBURSEMENT FOR RESPIRATORY THERAPISTS.

(a) Protecting Access to Respiratory Therapist Services.—
(1) Adding respiratory therapist services to the definition of medical and other health services.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (JJ), by inserting “and” after the semicolon; and

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

“(KK) respiratory therapist services (as defined in subsection (nnn)) furnished on or after January 1, 2025.”.

(2) Definition of respiratory therapist services.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“(nnn) Respiratory Therapist Services.—The term ‘respiratory therapist services’ means services performed by a respiratory therapist within the scope of practice of a respiratory therapist as defined by State law, regulations, and applicable accreditation standards for the assessment, treatment, and monitoring of patients requiring oxygen and oxygen related equipment, supplies, or services.”.
(b) Add-on Payment Adjustment.—Section 1834(a)(9) of the Social Security Act (42 U.S.C. 1395m(a)(9)), as amended by sections 101(b) and 102(a), is further amended by adding at the end the following new subparagraph:

“(H) Monthly payment add-on adjustment for respiratory therapist services.—For respiratory therapist services furnished on or after January 1, 2025, the Secretary shall implement through notice and comment rulemaking and in consultation with stakeholders a non-budget neutral add-on payment adjustment to the payment amount established under this paragraph that reflects the cost of providing respiratory therapist services as clinically appropriate under State law.”.

TITLE III—ADOPTION OF ELECTRONIC TEMPLATES

SEC. 301. USE OF ELECTRONIC TEMPLATES TO DOCUMENT MEDICAL NECESSITY AND RESTORING CLINICAL INFERENCE FOR OXYGEN AND OXYGEN RELATED EQUIPMENT, SUPPLIES, AND SERVICES.

(a) Adopting Electronic Templates for Determining Medical Necessity.—Section 1834(a)(5) of
the Social Security Act (42 U.S.C. 1395m(a)(5)) is amended by adding at the end the following:

“(G) Adoption of Electronic Templates to Document Medical Necessity.—

“(i) In general.—For any oxygen and oxygen related equipment, supplies or service, including liquid oxygen, furnished on or after January 1, 2025, the Secretary shall adopt a template in an electronic format that meets the requirements of clause (ii) to be completed by the prescribing practitioner (as defined by the Secretary) that shall constitute the complete request for information to determine whether payment for such service, equipment, or supplies is covered by this title and is reasonable and necessary for the diagnosis or treatment of illness or injury (under section 1862(a)(1)(A)).

“(ii) Template requirements.—The template shall require the prescribing practitioner to provide each of the following:

“(I) Documentation that the beneficiary was seen by a prescribing
practitioner within the appropriate
timeframes for certification of the
need for the services, equipment, or
supplies.

“(II) Documentation of the qualifying blood gas or saturation test results.

“(III) Documentation indicating that the beneficiary needs or is using the appropriate equipment, supplies, and services.

“(IV) Any other documentation determined appropriate by the Secretary, except the Secretary shall not require the prescribing practitioner to provide medical record notes regarding the beneficiary.

“(iii) CONTRACTOR ADJUDICATION.—The Secretary shall require Medicare administrative contractors to adjudicate claims for payment for oxygen and oxygen related equipment, supplies, and services using electronic transactions.

“(H) RESTORATION OF CLINICAL INFER-
ENCE AND JUDGMENT.—For claims submitted
on or after the date of enactment of this sub-
paragraph with respect to the conduct of pay-
ment audits of suppliers of oxygen and oxygen
related equipment, supplies, and services under
this part the Secretary shall use clinical infer-
ence and clinical judgment in the evaluation of
templates, medical records, and orders when
conducting such audits in the same manner as
the Secretary interpreted and applied such clin-
ical judgment to claim reviews before 2009 pur-
suant to the Secretary’s instruction to contrac-
tors.”

**TITLE IV—ESTABLISHMENT OF**
**BENEFICIARY RIGHTS**

**SEC. 401. ESTABLISHING PROTECTIONS FOR INDIVIDUALS RECEIVING OXYGEN OR OXYGEN RELATED EQUIPMENT, SUPPLIES, OR SERVICES.**

Section 1834(a)(5) of the Social Security Act (42
U.S.C. 1395m(a)(5)), as amended by section 301, is fur-
ther amended by adding at the end the following new sub-
paragraph:

“(I) ESTABLISHING PROTECTIONS FOR IN-
DIVIDUALS RECEIVING OXYGEN OR OXYGEN RE-
LATED EQUIPMENT, SUPPLIES, OR SERVICES.—
The Secretary shall establish through regulation
protections for any individual receiving oxygen
or oxygen related equipment, supplies, or serv-
ces under this part where such individual shall
have the right to—

“(i) choose the local supplier of such
services from among qualified suppliers
and to change such supplier;

“(ii) receive communications from the
supplier in a clear and understandable
manner;

“(iii) ensure privacy and confiden-
tiality in all aspects of treatment and the
personal health information of such indi-
vidual consistent with Federal and State
laws;

“(iv) be informed by the supplier of
such services about all aspects of the serv-
des being furnished by such supplier and
be informed of the right to refuse treat-
ment, to discontinue treatment, and to
refuse to participate in experimental re-
search;

“(v) be informed by the supplier of
policies and expectations of the supplier re-
garding patient conduct and responsibilities;

“(vi) be informed by the supplier about treatment modalities and categories of equipment relating to oxygen services for use by the individual and offered by the supplier;

“(vii) be informed by the supplier of the policies of such supplier regarding 24-hour on-call coverage;

“(viii) be informed by the supplier of the financial responsibilities of the individual with regard to such services;

“(ix) be provided with the appropriate gaseous or liquid oxygen equipment, supplies, and services to ensure the mobility of the beneficiary, as well as the clinically appropriate amount of oxygen and oxygen related equipment, supplies, and services as agreed upon by the individual (or the individual’s representative), the supplier, and the prescribing practitioner;

“(x) receive equipment that is maintained to the guidelines of the manufacturer.
“(xi) have broken or faulty equipment repaired or replaced in a timely manner;

“(xii) have oxygen or oxygen related equipment or supplies delivered by the supplier and to be contacted consistent with the requirements of section 410.38 of title 42, Code of Federal Regulations;

“(xiii) be informed by the supplier of any potential changes to the equipment, supplies, or services of the individual and the right to consult with the prescribing practitioner of the individual regarding such changes to ensure they are appropriate and necessary and to be informed of the exceptions, as specified by the Secretary, when a supplemental oxygen services supplier may change the oxygen equipment of the individual;

“(xiv) be informed by the supplier of the internal and external grievance processes of the supplier (as well as how to contact Medicare through a hotline or beneficiary ombudsman), which shall include the right of an individual to file, personally or through a representative of the individ-
ual’s choosing, an internal or external grievance without retaliation or denial of services;

“(xv) in the case of a supplier involuntary discharging an individual—

“(I) receive from such supplier a written notice that is provided to the individual no later than 30 days in advance of the involuntary discharge of the individual; and

“(II) have such supplier—

“(aa) follow established involuntary discharge procedures; or

“(bb) in the case of an immediate threat to the health and safety of others, follow an abbreviated involuntary discharge procedure;

“(xvi) be assisted by the supplier in obtaining the oxygen equipment and supplies prescribed by the treating physician of the individual when the individual is traveling;
“(xvii) receive from the supplier oxygen supplies, refills, and emergency back-up equipment, as appropriate; and

“(xviii) be informed of a plan by the supplier in case of a power outage or other natural emergency, so that the individual will continue to receive the necessary oxygen supplies and equipment.”.