

115TH CONGRESS  
1ST SESSION

# H. R. 3378

To amend title XVIII of the Social Security Act to require reporting of certain data by providers and suppliers of air ambulance services for purposes of reforming reimbursements for such services under the Medicare program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2017

Mrs. WALORSKI (for herself, Ms. DELBENE, Mr. JOHNSON of Ohio, Mr. RUIZ, and Mr. SESSIONS) 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 require reporting of certain data by providers and suppliers of air ambulance services for purposes of reforming reimbursements for such services under the Medicare program, 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 “Ensuring Access to  
5       Air Ambulance Services Act of 2017”.

1 **SEC. 2. AIR AMBULANCE DATA REPORTING PROGRAM AND**  
2 **VALUE-BASED PURCHASING PROGRAM.**

3 Section 1834(l) of the Social Security Act (42 U.S.C.  
4 1395m(l)) is amended—

5 (1) in paragraph (3)(B), by striking “subpara-  
6 graph (C)” and inserting “subparagraph (C) and  
7 paragraphs (17) and (20)”;

8 (2) in paragraph (3)(C), by inserting “(other  
9 than 2018)” after “each subsequent year”; and

10 (3) by adding at the end the following new  
11 paragraphs:

12 “(17) AIR AMBULANCE DATA REPORTING PRO-  
13 GRAM.—

14 “(A) SUBMISSION OF COST DATA.—With  
15 respect to 2019 and each subsequent year, each  
16 supplier or provider of air ambulance services  
17 shall submit to the Secretary data specified  
18 under subparagraph (B) for air ambulance  
19 services furnished by such provider or supplier  
20 during such year. Such data shall be submitted  
21 in a form and manner, and on an annual basis,  
22 as specified by the Secretary for purposes of  
23 this subparagraph.

24 “(B) COST DATA.—For purposes of report-  
25 ing data for air ambulance services furnished

1 during a year, the data described in this sub-  
2 paragraph are cost data on the following:

3 “(i) Maintenance of aircrafts.

4 “(ii) Medical supplies and equipment.

5 “(iii) Fuel.

6 “(iv) Employee expenses.

7 “(v) Recurring training relating to  
8 aviation, maintenance, communication, and  
9 clinical.

10 “(vi) Rent and utilities.

11 “(vii) Communications.

12 “(viii) Travel.

13 “(ix) Hull and aviation liability insur-  
14 ance, life insurance, and professional mal-  
15 practice insurance.

16 “(x) Marketing.

17 “(xi) Supplies and equipment.

18 “(xii) Overhead support.

19 “(xiii) Aircraft ownership expenses.

20 “(xiv) Depreciation.

21 “(xv) Safety enhancement capital  
22 costs.

23 “(xvi) Safety enhancement recurring  
24 costs.

1           “(C) CONSULTATION RELATING TO COST  
2           REPORTS.—For purposes of this paragraph, the  
3           Secretary shall consult with suppliers and pro-  
4           viders of air ambulance services to develop a  
5           cost reporting instrument and further define  
6           the data specified under subparagraph (B)  
7           through instructions.

8           “(D) SUBMISSION OF QUALITY DATA.—  
9           With respect to 2020 and each subsequent year,  
10          each supplier or provider of air ambulance serv-  
11          ices shall submit to the Secretary data specified  
12          under subparagraph (E) for air ambulance  
13          services furnished by such supplier or provider  
14          during such year. Such data shall be submitted  
15          in a form and manner, and on an annual basis,  
16          as specified by the Secretary for purposes of  
17          this subparagraph.

18          “(E) QUALITY DATA.—For purposes of re-  
19          porting data for air ambulance services fur-  
20          nished during a year, the data described in this  
21          subparagraph are quality data on the following  
22          measures:

23                 “(i) Mechanical ventilator use in pa-  
24                 tients with advanced airways.

1 “(ii) Interpretation of 12-lead electro-  
2 cardiogram documented on patient care  
3 record for those transported with primary  
4 cardiac diagnoses.

5 “(iii) Continuous waveform capnogra-  
6 phy for mechanically ventilated patients.

7 “(iv) Advanced airway established  
8 without newly developed hypoxia or hypo-  
9 tension.

10 “(v) Tracheal intubation verified with  
11 capnography and direct visualization, chest  
12 radiograph, or symmetric breath sounds.

13 “(F) CONSEQUENCE FOR NOT REPORTING  
14 QUALITY DATA FOR VALUE-BASED PUR-  
15 CHASING.—

16 “(i) IN GENERAL.—With respect to  
17 ambulance services furnished by a provider  
18 or supplier of air ambulance services dur-  
19 ing a payment year (beginning with 2024),  
20 if such provider or supplier does not sub-  
21 mit to the Secretary data specified under  
22 subparagraph (E) for the performance pe-  
23 riod for such year (as defined in paragraph  
24 (20)(F)), the Secretary shall provide for a  
25 percent reduction of 10 percent to the per-

1           centage increase determined under para-  
2           graph (3)(B), after application of para-  
3           graphs (3)(C) and (19) for such payment  
4           year.

5           “(ii) APPLICATION.—The reduction  
6           under clause (i) shall apply only with re-  
7           spect to the year involved and the Sec-  
8           retary shall not take into account such in-  
9           crease in computing the payment amount  
10          under the fee schedule under this sub-  
11          section for a subsequent year.

12          “(iii) DISTRIBUTION.—For purposes  
13          of paragraph (20)(D)(iii)(III), of the total  
14          amount of reductions pursuant to clause  
15          (i) for a payment year—

16               “(I) 50 percent of such reduc-  
17               tions shall be made available for pur-  
18               poses of performance payments under  
19               paragraph (20) for such payment  
20               year; and

21               “(II) 50 percent shall be trans-  
22               ferred to the Federal Hospital Insur-  
23               ance Trust Fund under section 1817.

24          “(G) DATA DISCLOSURES.—The Secretary  
25          shall provide, with respect to data submitted

1 under subparagraph (D) by a supplier or pro-  
2 vider of air ambulance services—

3 “(i) with respect to 2020, on a con-  
4 fidential basis to such supplier or provider,  
5 information with respect to such data and  
6 year, including a comparison of the results  
7 of such data submitted by such supplier or  
8 provider to the national average, with re-  
9 spect to such data reported; and

10 “(ii) with respect to a subsequent  
11 year, for the public disclosure of such in-  
12 formation with respect to such subsequent  
13 year, including the comparison described in  
14 clause (i) of such data with respect to such  
15 subsequent year.

16 “(H) REPORTS.—

17 “(i) BY SECRETARY.—Not later than  
18 July 1, 2021, subject to clause (iii), the  
19 Secretary shall submit to Congress a re-  
20 port on the data described in subpara-  
21 graphs (B) and (E) submitted to the Sec-  
22 retary.

23 “(ii) BY COMPTROLLER GENERAL.—  
24 Not later than July 1, 2021, subject to  
25 clause (iii), the Comptroller General of the

1 United States shall submit to Congress a  
2 report on the data described in subpara-  
3 graph (B) and subparagraph (E) sub-  
4 mitted under this paragraph. Such report  
5 shall include an analysis of cost variation  
6 to providers and supplier of air ambulance  
7 services by geography and provider or sup-  
8 plier status and a recommendation on the  
9 adequate amount of reimbursement under  
10 this title to providers and suppliers of air  
11 ambulance services for furnishing such  
12 services that would reflect operational costs  
13 of such providers and suppliers and pre-  
14 serve access to critical air medical services  
15 and such other recommendations as the  
16 Comptroller General deems appropriate.

17 “(iii) LIMITATION.—The reports sub-  
18 mitted under subclauses (i) and (ii) shall  
19 not include any information that the Sec-  
20 retary or Comptroller General, respectively,  
21 determines is proprietary.

22 “(18) TEMPORARY INCREASE IN PAYMENT FOR  
23 AIR AMBULANCE SERVICES.—

24 “(A) INCREASE.—



1 “(i) IN GENERAL.—Subject to sub-  
2 paragraph (B), in the case of air ambu-  
3 lance services—

4 “(I) furnished during 2018, the  
5 Secretary shall provide for a percent  
6 increase of 12 percent in the base rate  
7 of the fee schedule established under  
8 this subsection for such air ambulance  
9 services; and

10 “(II) furnished during 2019 and  
11 2020, the Secretary shall provide for  
12 a percent increase of 20 percent in  
13 the base rate of the fee schedule es-  
14 tablished under this subsection for  
15 such air ambulance services.

16 “(ii) APPLICATION.—The increase  
17 under clause (i) shall apply only with re-  
18 spect to the year involved and the Sec-  
19 retary shall not take into account such in-  
20 crease in computing the payment amount  
21 under the fee schedule under this sub-  
22 section for a subsequent year.

23 “(B) NO INCREASE FOR PROVIDERS AND  
24 SUPPLIERS THAT DO NOT REPORT DATA.—The  
25 Secretary shall not provide for the percent in-

crease under subparagraph (A) in the base rate of the fee schedule established under this subsection—

“(i) with respect to air ambulances services furnished by a supplier or provider of air ambulances services during 2019, unless the provider or supplier submits to the Secretary cost data in accordance with paragraph (17)(A) for such year; and

“(ii) with respect to air ambulances services furnished by a supplier or provider of air ambulances services during 2020, unless the provider or supplier submits to the Secretary cost data in accordance with paragraph (17)(A) and quality data in accordance with paragraph (17)(D) for such year.

“(19) REBASING AIR AMBULANCE BASE RATE.—The Secretary shall, through rulemaking, provide for an update to the base rate of the fee schedule established under this subsection for air ambulance services, which shall be applied beginning with air ambulance services furnished during 2021, so that such rate reflects the actual costs of providing air ambulance services, consistent with cost

1 data submitted under paragraph (17)(A). In car-  
2 rying out the previous sentence, the Secretary shall  
3 ensure that the aggregate data, methodology, and  
4 rationale applied for determining the updated base  
5 rate shall be made publicly available through rule-  
6 making. The preceding sentence shall not be applied  
7 in a budget neutral manner.

8 “(20) VALUE-BASED PURCHASING PROGRAM.—

9 “(A) IN GENERAL.—The Secretary shall  
10 establish an air ambulance services value-based  
11 purchasing program (in this paragraph referred  
12 to as the ‘Program’). Under the Program, the  
13 Secretary shall—

14 “(i) for a performance period (as de-  
15 fined in subparagraph (F)) with respect to  
16 a payment year (beginning with 2024), de-  
17 termine the performance of each provider  
18 or supplier of air ambulance services, with  
19 respect to each quality measure described  
20 in paragraph (17)(E);

21 “(ii) for each such performance pe-  
22 riod, establish performance benchmarks in  
23 accordance with subparagraph (B);

24 “(iii) for each such performance pe-  
25 riod and each quality measure described in

1 paragraph (17)(E), establish a perform-  
2 ance score for each provider or supplier of  
3 air ambulance services, that is determined  
4 by measuring the performance of such pro-  
5 vider or supplier described in clause (i),  
6 with respect to each quality measure de-  
7 scribed in such clause, against the per-  
8 formance benchmark established under  
9 subparagraph (B) for such quality meas-  
10 ure;

11 “(iv) for each such performance pe-  
12 riod and provider or supplier of air ambu-  
13 lance services, determine a composite per-  
14 formance quality score, in accordance with  
15 subparagraph (C);

16 “(v) for each such performance pe-  
17 riod, rank each provider or supplier of air  
18 ambulance services, based on the composite  
19 performance quality score of such provider  
20 or supplier for such period (as determined  
21 under subparagraph (C)), in order from  
22 highest to lowest; and

23 “(vi) for each such payment year  
24 specify a performance payment percentage  
25 point adjustment, in accordance with sub-

1 paragraph (D)(ii), for each provider or  
2 supplier of air ambulance services to be ap-  
3 plied under subparagraph (D)(i).

4 “(B) PERFORMANCE BENCHMARKS.—

5 Under the Program, for each performance pe-  
6 riod with respect to a payment year (beginning  
7 with payment year 2024), the Secretary shall  
8 establish a nationwide performance benchmark  
9 for each quality measure described in para-  
10 graph (17)(E). Such a benchmark, with respect  
11 to such a quality measure, shall be the average  
12 of the performance scores for all such providers  
13 and suppliers for such measure.

14 “(C) COMPOSITE PERFORMANCE QUALITY

15 SCORES.—Under the Program, for each per-  
16 formance period with respect to a payment year  
17 (beginning with payment year 2024), the Sec-  
18 retary shall determine a composite performance  
19 quality score for each provider or supplier of air  
20 ambulance services, based on the cumulative  
21 performance scores determined under subpara-  
22 graph (A)(iii) for such provider or supplier and  
23 performance period. For purposes of ranking  
24 under subparagraph (A)(v), a provider or sup-  
25 plier of air ambulance services who does not

1 submit required data to determine performance  
2 under this paragraph for a performance period  
3 for a year shall be treated as receiving a com-  
4 posite performance quality score of zero under  
5 this subparagraph for such period and shall be  
6 ranked accordingly under subparagraph (A)(v).

7 “(D) PERFORMANCE PAYMENT.—

8 “(i) IN GENERAL.—With respect to  
9 ambulance services furnished by a provider  
10 or supplier of air ambulance services dur-  
11 ing a payment year (beginning with 2024),  
12 the Secretary shall apply a performance  
13 payment percentage point adjustment to  
14 the percentage increase determined under  
15 paragraph (3)(B), after application of  
16 paragraphs (3)(C), (17)(F), and (19) and  
17 subparagraph (E) for a payment year (be-  
18 ginning with 2024).

19 “(ii) PERFORMANCE PAYMENT PER-  
20 CENTAGE POINT ADJUSTMENT.—The Sec-  
21 retary shall, in accordance with clause (iii),  
22 specify a performance payment percentage  
23 point adjustment for a provider or supplier  
24 of air ambulance services for a payment

1 year (beginning with 2024) which may in-  
2 clude a zero percentage.

3 “(iii) REQUIREMENTS.—In specifying  
4 the performance payment percentage point  
5 adjustment for a provider or supplier of air  
6 ambulance services for a payment year  
7 under clause (i), the Secretary shall ensure  
8 that—

9 “(I) such adjustment is based on  
10 the ranking of the provider or supplier  
11 under subparagraph (A)(v) for the  
12 performance period for such payment  
13 year;

14 “(II) the application of all such  
15 adjustments in such fiscal year results  
16 in an appropriate distribution of per-  
17 formance payment incentives applied  
18 under this paragraph such that—

19 “(aa) providers and sup-  
20 pliers of air ambulance services  
21 with the highest rankings under  
22 subparagraph (A)(v) receive the  
23 highest payment increases under  
24 clause (i); and

1 “(bb) providers and sup-  
2 pliers of air ambulance services  
3 with the lowest rankings under  
4 subparagraph (A)(v) receive the  
5 lowest payment increases under  
6 clause (i), which may include  
7 zero; and

8 “(III) the total amount of in-  
9 creases in payment under this sub-  
10 section for all providers and suppliers  
11 of air ambulance services, pursuant to  
12 this subparagraph, in such payment  
13 year shall be equal to the sum of the  
14 total amount, as estimated by the Sec-  
15 retary, of the reductions to payments  
16 under this subsection for such pay-  
17 ment year pursuant to subparagraph  
18 (E) and the total amount, as esti-  
19 mated by the Secretary, of the reduc-  
20 tions made under paragraph  
21 (17)(F)(i) and made available under  
22 paragraph (17)(F)(iii)(I) for purposes  
23 of performance payments under this  
24 paragraph for such payment year.



1           “(E) FUNDING FOR PERFORMANCE INCEN-  
2           TIVE ADJUSTMENTS.—

3                   “(i) IN GENERAL.—With respect to  
4           air ambulance services furnished by a sup-  
5           plier or provider of air ambulance services  
6           during 2024 or a subsequent year, the Sec-  
7           retary shall, after determining the percent-  
8           age increase under paragraph (3)(B), and  
9           after application of paragraphs (3)(C),  
10          (17), and (19), shall reduce such percent-  
11          age increase for payments under the fee  
12          schedule under this subsection otherwise  
13          applicable to such provider or supplier for  
14          services furnished by such provider or sup-  
15          plier during such year by the applicable  
16          percent (as defined in clause (ii)). The Sec-  
17          retary shall make such reductions for all  
18          providers and suppliers of air ambulance  
19          services in the year involved, regardless of  
20          whether or not the provider or supplier has  
21          been determined by the Secretary to have  
22          earned a performance payment percentage  
23          point adjustment under subparagraph (D)  
24          for such year.

1                   “(ii) APPLICABLE PERCENT.—For  
2                   purposes of clause (i), the term ‘applicable  
3                   percent’ means, with respect to 2024 and  
4                   succeeding years, 2 percent.

5                   “(F) PERFORMANCE PERIOD.—For pur-  
6                   poses of this paragraph, the term ‘performance  
7                   period’ means, with respect to a payment year,  
8                   the previous year (or, if specified by the Sec-  
9                   retary, portion or portions of such previous  
10                  year).”.

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