

110TH CONGRESS  
1ST SESSION

# H. R. 2520

To amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of certain medical mobility devices approved as class III medical devices.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2007

Mr. LANGEVIN (for himself, Mr. RAMSTAD, Mr. FERGUSON, Mr. CAMP of Michigan, Mrs. BOYDA of Kansas, Ms. SHEA-PORTER, Mr. NUNES, Mr. ISSA, Mr. HINCHEY, Mr. JINDAL, Mr. COHEN, Mr. FARR, Mr. SARBANES, and Mr. ELLISON) 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 provide for coverage under the Medicare Program of certain medical mobility devices approved as class III medical devices.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. COVERAGE OF CLASS III MEDICAL MOBILITY**  
2 **DEVICES.**

3 (a) COVERED BENEFIT.—Section 1861(s)(2) of the  
4 Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

5 (1) in subparagraph (Z), by striking “and” at  
6 the end;

7 (2) in subparagraph (AA), by inserting “and”  
8 at the end; and

9 (3) by adding at the end the following new sub-  
10 paragraph:

11 “(BB) class III medical mobility devices (as de-  
12 fined in subsection (ccc)(1)) furnished to a class III  
13 medical mobility-device eligible individual (as defined  
14 in subsection (ccc)(2));”.

15 (b) DEFINITIONS.—Section 1861 of such Act (42  
16 U.S.C. 1395x) is amended by adding at the end the fol-  
17 lowing new subsection:

18 “Class III Medical Mobility Device; Class III Medical  
19 Mobility-Device Eligible Individual

20 “(ccc)(1) The term ‘class III medical mobility device’  
21 means a medical mobility device that has been approved  
22 as a class III medical device pursuant to a premarket ap-  
23 proval application under the Federal Food, Drug, and  
24 Cosmetic Act and that—

25 “(A) is able, among other functions—

1           “(i) to ascend and descend stairs using a  
2 climbing and descending function;

3           “(ii) to traverse different terrain and var-  
4           ious obstacles (including uneven terrain, curbs  
5           of 5 inches in height, grass, gravel, and other  
6           soft surfaces) using a 4-wheel drive function;  
7           and

8           “(iii) to provide mobility in a seated posi-  
9           tion at an elevated height using a balance func-  
10          tion;

11          “(B) has been prescribed for a class III medical  
12          mobility-device eligible individual (as defined in  
13          paragraph (2)) by the individual’s treating physician  
14          (as defined in subsection (r)(1)) for an approved in-  
15          dication of the class III medical mobility device; and

16          “(C) is only dispensed after an assessment of  
17          the class III medical mobility-device eligible indi-  
18          vidual has been completed by a health care profes-  
19          sional specified in paragraph (3) who has success-  
20          fully completed training in making such assessments  
21          under standards specified by the Secretary in con-  
22          sultation with representatives of appropriate indus-  
23          try and medical organizations.

24          “(2) The term ‘class III medical mobility-device eligi-  
25          ble individual’ means, with respect to a class III medical

1 mobility device, an individual who, at the time the pre-  
2 scription for the device is written, meets each of the fol-  
3 lowing requirements:

4           “(A) The individual has a functional limitation  
5 of mobility that hinders the individual’s ability to  
6 perform mobility-related activities of daily living.

7           “(B) The use of the class III medical mobility  
8 device with respect to the individual is for uses of  
9 the device that have been approved by the Food and  
10 Drug Administration for the device.

11           “(C) The individual demonstrates sufficient  
12 cognitive and physical ability for the proper and safe  
13 operation of the device (such as sufficient use of one  
14 upper extremity and the ability to dial a push button  
15 telephone or operate a hand operated joystick) under  
16 such medical standards as the Secretary may speci-  
17 fy.

18           “(D) The individual meets drivers licensing cri-  
19 teria established in 1996 by the Epilepsy Founda-  
20 tion of America.

21           “(E) The individual is not a resident of an in-  
22 stitution that meets the requirements of subsection  
23 (e)(1) or section 1819(a)(1).

24           “(F) The individual has completed a com-  
25 prehensive training program (that meets standards

1 developed by the Secretary in consultation with ap-  
2 propriate industry representatives) on the safe oper-  
3 ation of the class III medical mobility device and its  
4 functions.

5 “(G) The individual was initially entitled to  
6 benefits under part A of this title by reason of sec-  
7 tion 226(b).

8 “(H) The residence of the individual—

9 “(i) has stairs that meet the conditions of  
10 use of the class III medical mobility device for  
11 a stair as indicated in the labeling of the device;  
12 and

13 “(ii) does not have a mechanical method to  
14 ascend or descend such a stair or stairs (such  
15 as an elevator or such other mechanical meth-  
16 ods as the Secretary may specify).

17 “(3) A health care professional specified in this para-  
18 graph is any of the following:

19 “(A) A physician (as defined in subsection  
20 (r)(1)).

21 “(B) A physician assistant.

22 “(C) A nurse practitioner.

23 “(D) A qualified physical therapist.

24 “(E) A qualified occupational therapist.”.

25 (c) CONFORMING AMENDMENTS.—

1           (1) PROVISION OF CLASS III MEDICAL MOBILITY  
2           DEVICE ONLY TO CLASS III MEDICAL MOBILITY-DE-  
3           VICE ELIGIBLE INDIVIDUAL; MEDICAL NECESSITY.—  
4           Section 1862 of such Act (42 U.S.C. 1395y) is  
5           amended—

6                   (A) in subsection (a)(1)—

7                           (i) in subparagraph (M), by striking  
8                           “and” at the end;

9                           (ii) in subparagraph (N), by striking  
10                          the semicolon at the end and inserting “,  
11                          and”; and

12                          (iii) by inserting after subparagraph  
13                          (N) the following new subparagraph:

14                          “(O) in the case of a class III medical mo-  
15                          bility device (as defined in paragraph (1) of sec-  
16                          tion 1861(ccc)), which is furnished other than  
17                          to a class III medical mobility-device eligible in-  
18                          dividual (as defined in paragraph (2) of such  
19                          section);” and

20                          (B) by adding at the end the following new  
21                          subsection:

22                          “(n) CLARIFICATION OF COVERAGE OF AND PAY-  
23                          MENT FOR ALL FUNCTIONS OF CLASS III MEDICAL MO-  
24                          BILITY DEVICES.—In the case of a class III medical mo-  
25                          bility device (as defined in section 1861(ccc)(1)) furnished

1 to a class III medical mobility-device eligible individual,  
2 each function of such device, including the functions de-  
3 scribed in subparagraph (A) of such section, are deemed  
4 for purposes of subsection (a)(1), to be reasonable and  
5 necessary for the treatment of an illness or injury or to  
6 improve the functioning of a malformed body member.”.

7 (2) PAYMENT IN CONNECTION COVERED ITEMS;  
8 PURCHASE AGREEMENT OPTION; MAINTENANCE.—  
9 Section 1834(a) of such Act (42 U.S.C. 1395m(a))  
10 is amended—

11 (A) in paragraph (1)(B)(ii), by inserting  
12 “and (22)” after “(7)”;

13 (B) in paragraph (13), by inserting before  
14 the period at the end the following: “, and also  
15 includes a class III medical mobility device (as  
16 defined in section 1861(ccc)(1))”; and

17 (C) by adding at the end the following new  
18 paragraph:

19 “(22) PAYMENT FOR CLASS III MEDICAL MOBIL-  
20 ITY DEVICES.—

21 “(A) IN GENERAL.—Subject to the sub-  
22 paragraph (B), in the case of a class III med-  
23 ical mobility device (as defined in section  
24 1861(ccc)(1)), the provisions of paragraph (7)  
25 (including the option for a purchase agreement

1 under subparagraph (A)(iii) of such paragraph)  
2 shall apply to such device under this paragraph  
3 in the same manner as those provisions apply  
4 to a covered item under paragraph (7).

5 “(B) PAYMENT FOR ALL FUNCTIONS OF  
6 CLASS III MEDICAL MOBILITY DEVICES.—In the  
7 case of a class III medical mobility device, pay-  
8 ment under this paragraph for such device shall  
9 be made taking into account all functions of  
10 such device, consistent with section 1862(n).”.

11 (3) REQUIREMENT FOR FACE-TO-FACE EN-  
12 COUNTER WITH A PHYSICIAN AND FOR WRITTEN  
13 PRESCRIPTION.—Clause (iv) of section  
14 1834(a)(1)(E) of such Act (42 U.S.C.  
15 1395m(a)(1)(E)) is amended—

16 (A) in the heading, by inserting “AND  
17 CLASS III MEDICAL MOBILITY DEVICES” after  
18 “WHEELCHAIRS”; and

19 (B) by adding at the end the following: “In  
20 the case of a covered item consisting of a class  
21 III medical mobility device (as defined in para-  
22 graph (1) of section 1861(ccc)) for a class III  
23 medical mobility-device eligible individual (as  
24 defined in paragraph (2) of such section), pay-  
25 ment may not be made for such item under this

1 part unless a physician (as defined in section  
2 1861(r)) has conducted such examination and  
3 written such prescription for the item.”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to devices furnished on or after  
6 the date of the enactment of this Act.

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