

116TH CONGRESS
2D SESSION

S. _____

To amend title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ 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 provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients, 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 “Comprehensive Im-
5 munosuppressive Drug Coverage for Kidney Transplant
6 Patients Act of 2020”.

1 **SEC. 2. EXTENDED MONTHS OF COVERAGE OF IMMUNO-**
 2 **SUPPRESSIVE DRUGS FOR KIDNEY TRANS-**
 3 **PLANT PATIENTS AND OTHER RENAL DIALY-**
 4 **SIS PROVISIONS.**

5 (a) MEDICARE ENTITLEMENT TO IMMUNO-
 6 SUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPI-
 7 ENTS.—

8 (1) IN GENERAL.—Section 226A(b)(2) of the
 9 Social Security Act (42 U.S.C. 426–1(b)(2)) is
 10 amended by inserting “(except for eligibility for en-
 11 rollment under part B solely for purposes of cov-
 12 erage of immunosuppressive drugs described in sec-
 13 tion 1861(s)(2)(J))” before “, with the thirty-sixth
 14 month”.

15 (2) INDIVIDUALS ELIGIBLE ONLY FOR COV-
 16 ERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

17 (A) IN GENERAL.—Section 1836 of the So-
 18 cial Security Act (42 U.S.C. 1395o) is amend-
 19 ed—

20 (i) by striking “Every” and inserting
 21 “(a) IN GENERAL.—EVERY”; and

22 (ii) by adding at the end the following
 23 new subsection:

24 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-
 25 SUPPRESSIVE DRUG COVERAGE.—

1 “(1) IN GENERAL.—Except as provided under
2 paragraph (2), every individual whose entitlement to
3 insurance benefits under part A ends (whether be-
4 fore, on, or after the date of the enactment of this
5 subsection) by reason of section 226A(b)(2) is eligi-
6 ble to enroll in the insurance program established by
7 this part solely for purposes of coverage of immuno-
8 suppressive drugs in accordance with section
9 1837(m).

10 “(2) EXCEPTION IF OTHER COVERAGE IS
11 AVAILABLE.—

12 “(A) IN GENERAL.—An individual de-
13 scribed in paragraph (1) shall not be eligible for
14 enrollment in the program for purposes of cov-
15 erage described in such paragraph with respect
16 to any period in which the individual, as deter-
17 mined in accordance with subparagraph (B)—

18 “(i) is enrolled in a group health plan
19 or group or individual health insurance
20 coverage, as such terms are defined in sec-
21 tion 2791 of the Public Health Service
22 Act; or

23 “(ii) is enrolled for coverage—

24 “(I) under the TRICARE for
25 Life program; or

1 【“(II) under the laws adminis-
2 tered by the Secretary of Veterans Af-
3 fairs/in the patient enrollment system
4 of the Department of Veterans Affairs
5 established and operated under sec-
6 tion 1705(a) of title 38, United States
7 Code.】

8 “(B) ELIGIBILITY DETERMINATIONS.—

9 “(i) IN GENERAL.—The Secretary,
10 【in consultation with the Commissioner of
11 Social Security】, shall establish a process
12 for determining whether an individual de-
13 scribed in paragraph (1) who is to be en-
14 rolled 【or deemed to be enrolled】 in the
15 insurance program described in such para-
16 graph meets the requirements for such en-
17 rollment under this subsection, including
18 the requirement that the individual not be
19 enrolled in other coverage as described in
20 subparagraph (A).

21 “(ii) ATTESTATION REGARDING
22 OTHER COVERAGE.—The process estab-
23 lished under clause (i) 【shall】 include, 【at
24 a minimum】, a requirement that—

1 “(I) the individual provide to the
2 Commissioner an attestation that the
3 individual is not enrolled in such other
4 coverage; and

5 “(II) the individual notify the
6 Secretary within **【30/60 days】** of any
7 change in the insurance coverage of
8 the individual.”.

9 (B) CONFORMING AMENDMENT.—Sections
10 1837, 1838, and 1839 of the Social Security
11 Act (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42
12 U.S.C. 1395r) are each amended by striking
13 “1836” and inserting “1836(a)” each place it
14 appears.

15 (b) ENROLLMENT FOR INDIVIDUALS ONLY ELIGIBLE
16 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
17 tion 1837 of the Social Security Act (42 U.S.C. 1395p)
18 is amended by adding at the end the following new sub-
19 section:

20 “(m)(1) Any individual who is eligible under section
21 1836(b) to enroll in the medical insurance program estab-
22 lished under this part for purposes of coverage of immuno-
23 suppressive drugs may enroll only in such manner and
24 form as may be prescribed by regulations, and only during
25 an enrollment period described in this subsection.

1 “(2) An individual described in paragraph (1) [whose
2 entitlement for hospital insurance benefits under part A
3 ends by reason of section 226A(b)(2) prior to January 1,
4 [2022],] may enroll [beginning on the first day of the
5 third month before the month in which the individual first
6 satisfies section 1836(b), or ____, whichever is later]. [do
7 you want to provide a date on which they would be able
8 to enroll at the earliest, for example in the case of individ-
9 uals who have already lost coverage prior to enactment or
10 prior to the date on which regulations have been promul-
11 gated to implement enrollment?]

12 “(3) An individual described in paragraph (1) whose
13 entitlement for hospital insurance benefits under part A
14 ends by reason of section 226A(b)(2) on or after January
15 1, [2022,] shall be deemed to have enrolled in the medical
16 insurance program established by this part for purposes
17 of coverage of immunosuppressive drugs.

18 “(4) The Secretary shall establish a process under
19 which an individual described in paragraph (1) whose
20 other coverage described in section 1836(b)(2)(A), or cov-
21 erage under this part (including the medical insurance
22 program established under this part for purposes of cov-
23 erage of immunosuppressive drugs) is terminated volun-
24 tarily or involuntary may enroll or reenroll, if applicable,
25 in the medical insurance program established under this

1 part for purposes of coverage of immunosuppressive
2 drugs.”.

3 (c) COVERAGE PERIOD FOR INDIVIDUALS ONLY ELI-
4 GIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE
5 DRUGS.—

6 (1) IN GENERAL.—Section 1838 of the Social
7 Security Act (42 U.S.C. 1395q) is amended by add-
8 ing at the end the following new subsection:

9 “(g) In the case of an individual described in section
10 1836(b)(1), the following rules shall apply:

11 “(1) In the case of such an individual who is
12 deemed to have enrolled in part B for coverage of
13 immunosuppressive drugs under section 1837(m)(3),
14 such individual’s coverage period shall begin on the
15 first day of the month in which the individual first
16 satisfies section 1836(b).

17 “(2) In the case of such an individual who en-
18 rolls (or reenrolls, if applicable) in part B for cov-
19 erage of immunosuppressive drugs under paragraph
20 (2) or (4) of section 1837(m), such individual’s cov-
21 erage period shall begin on **【January 1, 2022】**, or
22 the month following the month in which the indi-
23 vidual so enrolls (or reenrolls), whichever is later.

1 “(3) The provisions of subsections (b) and (d)
2 shall apply with respect to an individual described in
3 paragraph (1) or (2).

4 “(4) In addition to the reasons for termination
5 under subsection (b), the coverage period of an indi-
6 vidual described in paragraph (1) or (2) shall end
7 when the individual becomes entitled to benefits
8 under this title under section 226(a) or 226A or is
9 no longer eligible for such coverage as a result of the
10 application of section 1836(b)(2).

11 “(5) The Secretary may conduct public edu-
12 cation activities to raise awareness of the availability
13 of more comprehensive, qualified health plans for
14 beneficiaries eligible under this subsection.”.

15 (2) CONFORMING AMENDMENTS.—Section
16 1838(b) of the Social Security Act (42 U.S.C.
17 1395q(b)) is amended, in the matter following para-
18 graph (2), by inserting “or section 1837(m)(3)”
19 after “section 1837(f)” each place it appears.

20 (d) PREMIUMS FOR INDIVIDUALS ONLY ELIGIBLE
21 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
22 tion 1839 of the Social Security Act (42 U.S.C. 1395r)
23 is amended—

24 (1) in subsection (b), by adding at the end the
25 following new sentence: “No increase in the pre-

1 mium shall be effected for individuals who are en-
2 rolled pursuant to section 1836(b) for coverage only
3 of immunosuppressive drugs.”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(j) DETERMINATION OF PREMIUM FOR INDIVID-
7 UALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNO-
8 SUPPRESSIVE DRUGS.—The Secretary shall, during Sep-
9 tember of each year (beginning with 2021), determine and
10 promulgate a monthly premium rate for the succeeding
11 calendar year for individuals who enroll only for the pur-
12 pose of coverage of immunosuppressive drugs under sec-
13 tion 1836(b). Such premium shall be equal to 35 percent
14 of the monthly actuarial rate for enrollees age 65 and over,
15 determined according to paragraph (1), for that suc-
16 ceeding calendar year. The monthly premium of each indi-
17 vidual enrolled for coverage of immunosuppressive drugs
18 under section 1836(b) for each month shall be the amount
19 promulgated in this subsection. Such amount shall be ad-
20 justed in accordance with subsections (c), (f), and (i), but
21 shall not be adjusted under subsection (b).”.

22 (e) GOVERNMENT CONTRIBUTION.—Section 1844(a)
23 of the Social Security Act (42 U.S.C. 1395w(a)) is amend-
24 ed—

1 (1) in paragraph (3), by striking the period at
2 the end and inserting “; plus”;

3 (2) by inserting after paragraph (3) the fol-
4 lowing new paragraph:

5 “(4) a Government contribution equal to the es-
6 timated aggregate reduction in premiums payable
7 under part B that results from establishing the pre-
8 mium at 35 percent of the actuarial rate under sec-
9 tion 1839(j) instead of 50 percent of the actuarial
10 rate for individuals who enroll only for the purpose
11 of coverage of immunosuppressive drugs under sec-
12 tion 1836(b).”; and

13 (3) by adding the following sentence at the end
14 of the flush matter following paragraph (4), as
15 added by paragraph (2) of this subsection:

16 “The Government contribution under paragraph (4)
17 shall be treated as premiums payable and deposited
18 for purposes of subparagraphs (A) and (B) of para-
19 graph (1).”.

20 (f) ENSURING COVERAGE UNDER THE MEDICARE
21 SAVINGS PROGRAM.—Section 1905(p)(1)(A) of the Social
22 Security Act (42 U.S.C. 1396d(p)(1)(A)) is amended by
23 inserting “or an individual who is enrolled under part B
24 for the purpose of coverage of immunosuppressive drugs
25 under section 1836(b)” after “section 1818”.

1 (g) PART D.—Section 1860D–1(a)(3)(A) of the So-
2 cial Security Act (42 U.S.C. 1395w–101(a)(3)(A)) is
3 amended by inserting “(but not including an individual en-
4 rolled solely for coverage of immunosuppressive drugs
5 under section 1836(b))” before the period at the end.

6 (h) FUNDING FOR IMPLEMENTATION.—For purposes
7 of implementing the provisions of and the amendments
8 made by this section, the Secretary of Health and Human
9 Services shall provide for the transfer from [the Federal
10 Supplementary Medical Insurance Trust Fund established
11 under section 1841 of such Act (42 U.S.C. 1395t)] to
12 the Centers for Medicare & Medicaid Services Program
13 Management Account [of _____ for fiscal year/years
14 _____]. Amounts transferred pursuant to the preceding
15 sentence shall remain available until expended.

16 **SEC. 3. GAO STUDY AND REPORT.**

17 (a) STUDY.—The Comptroller General of the United
18 States (in this section referred to as the “Comptroller
19 General”) shall conduct a study on the implementation of
20 coverage of immunosuppressive drugs for kidney trans-
21 plant patients under the Medicare program pursuant to
22 the provisions of, and amendments made by this Act. Such
23 study shall include the identification, after implementation
24 of such coverage, of any leakage in the eligibility, enroll-

1 ment, and coverage processes relating to such coverage in
2 order to address program integrity issues.

3 (b) REPORT.—Not later than **【18 months/2 years】**
4 after the date of the enactment of this Act, the Comp-
5 troller General shall submit to Congress a report on the
6 study conducted under subsection (a), together with rec-
7 ommendations for such legislation and administrative ac-
8 tion as the Comptroller General determines appropriate.