

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.

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IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY (for himself, Mr. DURBIN, Ms. ERNST, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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 January 1, 2022) by reason of sec-  
5 tion 226A(b)(2) is eligible to enroll in the insurance  
6 program established by this part solely for purposes  
7 of coverage of immunosuppressive drugs in accord-  
8 ance with section 1837(m).

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

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

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

22           “(ii) is enrolled for coverage under the  
23 TRICARE for Life program under section  
24 1086(d) of title 10, United States Code; or

1           “(iii)(I) is enrolled in the patient en-  
2           rollment system of the Department of Vet-  
3           erans Affairs established and operated  
4           under section 1705 of title 38, United  
5           States Code;

6           “(II) is not required to enroll under  
7           section 1705 of such title to receive im-  
8           munosuppressive drugs described in this  
9           subsection; or

10           “(III) is otherwise eligible under a  
11           provision of title 38, United States Code,  
12           other than section 1710 of such title to re-  
13           ceive immunosuppressive drugs described  
14           in this subsection.

15           “(B) ELIGIBILITY DETERMINATIONS.—

16           “(i) IN GENERAL.—The Secretary, in  
17           consultation with the Commissioner of So-  
18           cial Security, shall establish a process for  
19           determining whether an individual de-  
20           scribed in paragraph (1) who is to be en-  
21           rolled or deemed to be enrolled in the in-  
22           surance program described in such para-  
23           graph meets the requirements for such en-  
24           rollment under this subsection, including  
25           the requirement that the individual not be

1 enrolled in other coverage as described in  
2 subparagraph (A).

3 “(ii) ATTESTATION REGARDING  
4 OTHER COVERAGE.—The process estab-  
5 lished under clause (i) shall include, at a  
6 minimum, a requirement that—

7 “(I) the individual provide to the  
8 Commissioner an attestation that the  
9 individual is not enrolled in such other  
10 coverage; and

11 “(II) the individual notify the  
12 Secretary within 60 days of any  
13 change in the insurance coverage of  
14 the individual.”.

15 (B) CONFORMING AMENDMENT.—Sections  
16 1837, 1838, and 1839 of the Social Security  
17 Act (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42  
18 U.S.C. 1395r) are each amended by striking  
19 “1836” and inserting “1836(a)” each place it  
20 appears.

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

1           “(m)(1) Any individual who is eligible under section  
2 1836(b) to enroll in the medical insurance program estab-  
3 lished under this part for purposes of coverage of immuno-  
4 suppressive drugs may enroll only in such manner and  
5 form as may be prescribed by regulations, and only during  
6 an enrollment period described in this subsection.

7           “(2) An individual described in paragraph (1) whose  
8 entitlement for hospital insurance benefits under part A  
9 ends by reason of section 226A(b)(2) prior to January 1,  
10 2022, may enroll beginning on the first day of the third  
11 month before the month in which the individual first satis-  
12 fies section 1836(b).

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

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

1 in the medical insurance program established under this  
2 part for purposes of coverage of immunosuppressive  
3 drugs.”.

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

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

10 “(g) In the case of an individual described in section  
11 1836(b)(1), the following rules shall apply:

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

18 “(2) In the case of such an individual who en-  
19 rolls (or reenrolls, if applicable) in part B for cov-  
20 erage of immunosuppressive drugs under paragraph  
21 (2) or (4) of section 1837(m), such individual’s cov-  
22 erage period shall begin on January 1, 2022, or the  
23 month following the month in which the individual  
24 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 **SEC. 3. GAO STUDY AND REPORT.**

7 (a) STUDY.—The Comptroller General of the United  
8 States (in this section referred to as the “Comptroller  
9 General”) shall conduct a study on the implementation of  
10 coverage of immunosuppressive drugs for kidney trans-  
11 plant patients under the Medicare program pursuant to  
12 the provisions of, and amendments made by this Act. Such  
13 study shall include the identification, after implementation  
14 of such coverage, of any leakage in the eligibility, enroll-  
15 ment, and coverage processes relating to such coverage in  
16 order to address program integrity issues.

17 (b) REPORT.—Not later than January 1, 2024, the  
18 Comptroller General shall submit to Congress a report on  
19 the study conducted under subsection (a), together with  
20 recommendations for such legislation and administrative  
21 action as the Comptroller General determines appropriate.