

107TH CONGRESS
1ST SESSION

S. 1204

To amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2001

Mr. DURBIN (for himself, Mr. ROCKEFELLER, Mr. EDWARDS, Mr. BIDEN, Mr. DORGAN, Mr. JOHNSON, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant.

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 Transplant Patients
6 Act of 2001”.

1 **SEC. 2. COMPREHENSIVE COVERAGE OF IMMUNO-**
 2 **SUPPRESSIVE DRUGS UNDER THE MEDICARE**
 3 **PROGRAM.**

4 (a) IN GENERAL.—Section 1861(s)(2)(J) of the So-
 5 cial Security Act (42 U.S.C. 1395x(s)(2)(J)), as amended
 6 by section 113(a) of the Medicare, Medicaid, and SCHIP
 7 Benefits Improvement and Protection Act of 2000 (114
 8 Stat. 2763A–473), as enacted into law by section 1(a)(6)
 9 of Public Law 106–554, is amended by striking “, to an
 10 individual who receives” and all that follows before the
 11 semicolon at the end and inserting “to an individual who
 12 has received an organ transplant”.

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to drugs furnished on or after the
 15 date of enactment of this Act.

16 **SEC. 3. PROVISION OF APPROPRIATE COVERAGE OF IM-**
 17 **MUNOSUPPRESSIVE DRUGS UNDER THE**
 18 **MEDICARE PROGRAM FOR ORGAN TRANS-**
 19 **PLANT RECIPIENTS.**

20 (a) CONTINUED ENTITLEMENT TO IMMUNO-
 21 SUPPRESSIVE DRUGS.—

22 (1) KIDNEY TRANSPLANT RECIPIENTS.—Sec-
 23 tion 226A(b)(2) of the Social Security Act (42
 24 U.S.C. 426–1(b)(2)) is amended by inserting “(ex-
 25 cept for coverage of immunosuppressive drugs under
 26 section 1861(s)(2)(J))” after “shall end”.

1 (2) OTHER TRANSPLANT RECIPIENTS.—The
 2 flush matter following paragraph (2)(C)(ii)(II) of
 3 section 226(b) of the Social Security Act (42 U.S.C.
 4 426(b)) is amended by striking “of this subsection)”
 5 and inserting “of this subsection and except for cov-
 6 erage of immunosuppressive drugs under section
 7 1861(s)(2)(J))”.

8 (3) APPLICATION.—Section 1836 of the Social
 9 Security Act (42 U.S.C. 1395o) is amended—

10 (A) by striking “Every individual who”
 11 and inserting “(a) IN GENERAL.—Every indi-
 12 vidual who”; and

13 (B) by adding at the end the following new
 14 subsection:

15 “(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS
 16 ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE
 17 DRUGS.—

18 “(1) IN GENERAL.—In the case of an individual
 19 whose eligibility for benefits under this title has
 20 ended except for the coverage of immunosuppressive
 21 drugs by reason of section 226(b) or 226A(b)(2), the
 22 following rules shall apply:

23 “(A) The individual shall be deemed to be
 24 enrolled under this part for purposes of receiv-
 25 ing coverage of such drugs.

1 “(B) The individual shall be responsible
2 for the full amount of the premium under sec-
3 tion 1839 in order to receive such coverage.

4 “(C) The provision of such drugs shall be
5 subject to the application of—

6 “(i) the deductible under section
7 1833(b); and

8 “(ii) the coinsurance amount applica-
9 ble for such drugs (as determined under
10 this part).

11 “(D) If the individual is an inpatient of a
12 hospital or other entity, the individual is enti-
13 tled to receive coverage of such drugs under
14 this part.

15 “(2) ESTABLISHMENT OF PROCEDURES IN
16 ORDER TO IMPLEMENT COVERAGE.—The Secretary
17 shall establish procedures for—

18 “(A) identifying beneficiaries that are enti-
19 tled to coverage of immunosuppressive drugs by
20 reason of section 226(b) or 226A(b)(2); and

21 “(B) distinguishing such beneficiaries from
22 beneficiaries that are enrolled under this part
23 for the complete package of benefits under this
24 part.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to drugs furnished on or after the date of enactment of this Act.

21 (a) APPLICATION TO CERTAIN HEALTH INSURANCE
22 COVERAGE.—

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1 300gg–4 et seq.) is amended by adding at the end
2 the following:

3 **“SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

4 “A group health plan (and a health insurance issuer
5 offering health insurance coverage in connection with a
6 group health plan) shall provide coverage of immuno-
7 suppressive drugs that is at least as comprehensive as the
8 coverage provided by such plan or issuer on the day before
9 the date of enactment of the Comprehensive Immuno-
10 suppressive Drug Coverage for Transplant Patients Act
11 of 2001, and such requirement shall be deemed to be in-
12 corporated into this section.”.

13 (2) CONFORMING AMENDMENT.—Section
14 2721(b)(2)(A) of the Public Health Service Act (42
15 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting
16 “(other than section 2707)” after “requirements of
17 such subparts”.

18 (b) APPLICATION TO GROUP HEALTH PLANS AND
19 GROUP HEALTH INSURANCE COVERAGE UNDER THE EM-
20 PLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

21 (1) IN GENERAL.—Subpart B of part 7 of sub-
22 title B of title I of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
24 amended by adding at the end the following new sec-
25 tion:

1 **“SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

2 “A group health plan (and a health insurance issuer
3 offering health insurance coverage in connection with a
4 group health plan) shall provide coverage of immuno-
5 suppressive drugs that is at least as comprehensive as the
6 coverage provided by such plan or issuer on the day before
7 the date of enactment of the Comprehensive Immuno-
8 suppressive Drug Coverage for Transplant Patients Act
9 of 2001, and such requirement shall be deemed to be in-
10 corporated into this section.”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 732(a) of the Employee Retirement
13 Income Security Act of 1974 (29 U.S.C.
14 1185(a)) is amended by striking “section 711”
15 and inserting “sections 711 and 714”.

16 (B) The table of contents in section 1 of
17 the Employee Retirement Income Security Act
18 of 1974 is amended by inserting after the item
19 relating to section 713 the following new item:

“Sec. 714. Coverage of immunosuppressive drugs.”.

20 (c) APPLICATION TO GROUP HEALTH PLANS UNDER
21 THE INTERNAL REVENUE CODE OF 1986.—Subchapter B
22 of chapter 100 of the Internal Revenue Code of 1986 is
23 amended—

1 (1) in the table of sections, by inserting after
2 the item relating to section 9812 the following new
3 item:

 “Sec. 9813. Coverage of immunosuppressive drugs.”;

4 and

5 (2) by inserting after section 9812 the fol-
6 lowing:

7 **“SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

8 “A group health plan shall provide coverage of im-
9 munosuppressive drugs that is at least as comprehensive
10 as the coverage provided by such plan on the day before
11 the date of enactment of the Comprehensive Immuno-
12 suppressive Drug Coverage for Transplant Patients Act
13 of 2001, and such requirement shall be deemed to be in-
14 corporated into this section.”.

15 (d) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to plan years beginning on or after
17 January 1, 2002.

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