

107TH CONGRESS  
1ST SESSION

# S. 880

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, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 15, 2001

Mr. DEWINE (for himself and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on Finance

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# 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, 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 “Immunosuppressive  
5 Drug Coverage Act of 2001”.

1 **SEC. 2. PROVISION OF APPROPRIATE COVERAGE OF IM-**2 **MUNOSUPPRESSIVE DRUGS UNDER THE**  
3 **MEDICARE PROGRAM.**4 (a) CONTINUED ENTITLEMENT TO IMMUNO-  
5 SUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPI-  
6 ENTS.—7 (1) IN GENERAL.—Section 226A(b)(2) of the  
8 Social Security Act (42 U.S.C. 426-1(b)(2)) is  
9 amended by inserting “(except for coverage of im-  
10 munosuppressive drugs under section  
11 1861(s)(2)(J))” after “shall end”.12 (2) APPLICATION.—In the case of an individual  
13 whose eligibility for benefits under title XVIII of the  
14 Social Security Act (42 U.S.C. 1395 et seq.) has  
15 ended except for the coverage of immunosuppressive  
16 drugs by reason of the amendment made by para-  
17 graph (1), the following rules shall apply:18 (A) The individual shall be deemed to be  
19 enrolled in part B of the original medicare fee-  
20 for-service program under title XVIII of the So-  
21 cial Security Act (42 U.S.C. 1395j et seq.) for  
22 purposes of receiving coverage of such drugs.23 (B) The individual shall be responsible for  
24 the full part B premium under section 1839 of  
25 such Act (42 U.S.C. 1395r) in order to receive  
26 such coverage.

3 (i) the part B deductible under section  
4 1833(b) of such Act (42 U.S.C. 1395l(b));  
5 and

6 (ii) the coinsurance amount applicable  
7 for such drugs (as determined under such  
8 part B).

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

17 (A) identifying beneficiaries that are entitled to coverage of immunosuppressive drugs by  
18 reason of the amendment made by paragraph  
19 (1); and  
20

(B) distinguishing such beneficiaries from beneficiaries that are enrolled under part B of title XVIII of the Social Security Act for the complete package of benefits under such part.

7 (b) EXTENSION OF SECONDARY PAYER REQUIRE-  
8 MENTS FOR ESRD BENEFICIARIES.—Section  
9 1862(b)(1)(C) of the Social Security Act (42 U.S.C.  
10 1395y(b)(1)(C)) is amended by adding at the end the fol-  
11 lowing new sentence: “With regard to immunosuppressive  
12 drugs furnished on or after the date of enactment of the  
13 Immunosuppressive Drugs Coverage Act of 2001, this  
14 subparagraph shall be applied without regard to any time  
15 limitation.”.

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

19 SEC. 3. PLANS REQUIRED TO MAINTAIN COVERAGE OF IM-  
20 MUNOSUPPRESSIVE DRUGS.

21 (a) APPLICATION TO CERTAIN HEALTH INSURANCE  
22 COVERAGE.—  
23 (1) IN GENERAL.—Subpart 2 of part A of title  
24 XXVII of the Public Health Service Act (42 U.S.C.

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 Immunosuppressive Drug  
10      Coverage Act of 2001, and such requirement shall be  
11      deemed to be incorporated into this section.”.

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

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

20           (1)      IN GENERAL.—Subpart B of part 7 of sub-  
21      title B of title I of the Employee Retirement Income  
22      Security Act of 1974 (29 U.S.C. 1185 et seq.) is  
23      amended by adding at the end the following new sec-  
24      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 Immunosuppressive Drug  
8 Coverage Act of 2001, and such requirement shall be  
9 deemed to be incorporated into this section.”.

10       **(2) CONFORMING AMENDMENTS.—**

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

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

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

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

“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 Immunosuppressive Drug  
12 Coverage Act of 2001, and such requirement shall be  
13 deemed to be incorporated into this section.”.

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

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