

108TH CONGRESS  
1ST SESSION

# S. 178

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.

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IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2003

Mr. DURBIN (for himself and Mr. DEWINE) 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.

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 2003”.

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)) is amended  
6   by striking “, to an individual who receives” and all that  
7   follows before the semicolon at the end and inserting “to  
8   an individual who has received an organ transplant”.

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

12   **SEC. 3. PROVISION OF APPROPRIATE COVERAGE OF IM-**  
13                   **MUNOSUPPRESSIVE DRUGS UNDER THE**  
14                   **MEDICARE PROGRAM FOR ORGAN TRANS-**  
15                   **PLANT RECIPIENTS.**

16       (a) CONTINUED ENTITLEMENT TO IMMUNO-  
17   SUPPRESSIVE DRUGS.—

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

23               (2) OTHER TRANSPLANT RECIPIENTS.—The  
24   flush matter following paragraph (2)(C)(ii)(II) of  
25   section 226(b) of the Social Security Act (42 U.S.C.  
26   426(b)) is amended by striking “of this subsection”

1 and inserting “of this subsection and except for cov-  
2 erage of immunosuppressive drugs under section  
3 1861(s)(2)(J)).”.

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

6 (A) by striking “Every individual who”  
7 and inserting “(a) IN GENERAL.—Every indi-  
8 vidual who”; and

9 (B) by adding at the end the following new  
10 subsection:

11 “(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS  
12 ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
13 DRUGS.—

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

19 (A) The individual shall be deemed to be  
20 enrolled under this part for purposes of receiv-  
21 ing coverage of such drugs.

22 (B) The individual shall be responsible  
23 for the full amount of the premium under sec-  
24 tion 1839 in order to receive such coverage.

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

3                   “(i) the deductible under section  
4                   1833(b); and

5                   “(ii) the coinsurance amount applica-  
6                   ble for such drugs (as determined under  
7                   this part).

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

12                 “(2) ESTABLISHMENT OF PROCEDURES IN  
13                 ORDER TO IMPLEMENT COVERAGE.—The Secretary  
14                 shall establish procedures for—

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

18                 “(B) distinguishing such beneficiaries from  
19                 beneficiaries that are enrolled under this part  
20                 for the complete package of benefits under this  
21                 part.”.

22                 (4) TECHNICAL AMENDMENT.—Subsection (c)  
23                 of section 226A of the Social Security Act (42  
24                 U.S.C. 426–1), as added by section 201(a)(3)(D)(ii)  
25                 of the Social Security Independence and Program

1        Improvements Act of 1994 (Public Law 103–296;  
2        108 Stat. 1497), is redesignated as subsection (d).  
3        (b) EXTENSION OF SECONDARY PAYER REQUIRE-  
4        MENTS FOR ESRD BENEFICIARIES.—Section  
5        1862(b)(1)(C) of the Social Security Act (42 U.S.C.  
6        1395y(b)(1)(C)) is amended by adding at the end the fol-  
7        lowing new sentence: “With regard to immunosuppressive  
8        drugs furnished on or after the date of enactment of the  
9        Comprehensive Immunosuppressive Drug Coverage for  
10      Transplant Patients Act of 2003, this subparagraph shall  
11      be applied without regard to any time limitation.”.

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

15 SEC. 4. PLANS REQUIRED TO MAINTAIN COVERAGE OF IM-  
16 MUNOSUPPRESSIVE DRUGS.

17 (a) APPLICATION TO CERTAIN HEALTH INSURANCE  
18 COVERAGE.—

**23 "SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

24 "A group health plan (and a health insurance issuer  
25 offering health insurance coverage in connection with a

1 group health plan) shall provide coverage of immuno-  
2 suppressive drugs that is at least as comprehensive as the  
3 coverage provided by such plan or issuer on the day before  
4 the date of enactment of the Comprehensive Immuno-  
5 suppressive Drug Coverage for Transplant Patients Act  
6 of 2003, and such requirement shall be deemed to be in-  
7 corporated into this section.”.

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

## 21 "SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.

22        “A group health plan (and a health insurance issuer  
23 offering health insurance coverage in connection with a  
24 group health plan) shall provide coverage of immuno-  
25 suppressive drugs that is at least as comprehensive as the

1 coverage provided by such plan or issuer on the day before  
2 the date of enactment of the Comprehensive Immuno-  
3 suppressive Drug Coverage for Transplant Patients Act  
4 of 2003, and such requirement shall be deemed to be in-  
5 corporated into this section.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 732(a) of the Employee Retire-  
8 ment Income Security Act of 1974 (29 U.S.C.  
9 1185(a)) is amended by striking “section 711”  
10 and inserting “sections 711 and 714”.

11 (B) The table of contents in section 1 of  
12 the Employee Retirement Income Security Act  
13 of 1974 is amended by inserting after the item  
14 relating to section 713 the following new item:

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

15 (c) APPLICATION TO GROUP HEALTH PLANS UNDER  
16 THE INTERNAL REVENUE CODE OF 1986.—Subchapter B  
17 of chapter 100 of the Internal Revenue Code of 1986 is  
18 amended—

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

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

22 and

23 (2) by inserting after section 9812 the fol-  
24 lowing:

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

2         “A group health plan shall provide coverage of im-  
3 munosuppressive drugs that is at least as comprehensive  
4 as the coverage provided by such plan on the day before  
5 the date of enactment of the Comprehensive Immuno-  
6 suppressive Drug Coverage for Transplant Patients Act  
7 of 2003, and such requirement shall be deemed to be in-  
8 corporated into this section.”.

9         (d) **EFFECTIVE DATE.**—The amendments made by  
10 this section shall apply to plan years beginning on or after  
11 January 1, 2004.

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