

108TH CONGRESS  
1ST SESSION

# S. 191

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 a kidney transplant, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2003

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 a kidney 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 2003”.

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.

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

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.

13 (3) ESTABLISHMENT OF PROCEDURES IN  
14 ORDER TO IMPLEMENT COVERAGE.—The Secretary  
15 of Health and Human Services shall establish proce-  
16 dures for—

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

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

1           (4) **TECHNICAL AMENDMENT.**—Subsection (c)  
 2 of section 226A (42 U.S.C. 426–1), as added by sec-  
 3 tion 201(a)(3)(D)(ii) of the Social Security Inde-  
 4 pendence and Program Improvements Act of 1994  
 5 (Public Law 103–296; 108 Stat. 1497), is redesi-  
 6 gnated as subsection (d).

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 2003, 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 2003, 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 2003, 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 Retirement  
12 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—

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 Immunosuppressive Drug  
12          Coverage Act of 2003, 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, 2004.

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