

109TH CONGRESS
1ST SESSION

S. 173

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

JANUARY 26, 2005

Mr. DEWINE (for himself and Mr. DURBIN) 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 2005”.

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 2005, 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.—

19 (1) IN GENERAL.—Subpart 2 of part A of title
20 XXVII of the Public Health Service Act (42 U.S.C.
21 300gg–4 et seq.) is amended by adding at the end
22 the following:

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 2005, and such requirement shall be deemed to be in-
 7 corporated into this section.”.

8 (2) CONFORMING AMENDMENT.—Section
 9 2721(b)(2)(A) of the Public Health Service Act (42
 10 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting
 11 “(other than section 2707)” after “requirements of
 12 such subparts”.

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

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

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 2005, 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 Retirement
8 Income Security Act of 1974 (29 U.S.C.
9 1191(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 2005, 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, 2006.

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