

116TH CONGRESS
2D SESSION

H. R. 2477

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2020

Received; read twice and referred to the Committee on Finance

AN ACT

To amend title XVIII of the Social Security Act to establish a system to notify individuals approaching Medicare eligibility, to simplify and modernize the eligibility enrollment process, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Beneficiary Enrollment
3 Notification and Eligibility Simplification Act of 2020” or
4 the “BENES Act of 2020”.

5 **SEC. 2. BENEFICIARY ENROLLMENT NOTIFICATION AND**
6 **ELIGIBILITY SIMPLIFICATION.**

7 (a) ELIGIBILITY AND ENROLLMENT NOTICES.—

8 (1) AS PART OF SOCIAL SECURITY ACCOUNT
9 STATEMENT FOR INDIVIDUALS ATTAINING AGES 63
10 TO 65.—

11 (A) IN GENERAL.—Section 1143(a) of the
12 Social Security Act (42 U.S.C. 1320b–13(a)) is
13 amended by adding at the end the following
14 new paragraph:

15 “(4) MEDICARE ELIGIBILITY INFORMATION.—

16 “(A) IN GENERAL.—In the case of statements
17 provided on or after the date that is 2 years after
18 the date of the enactment of this paragraph to indi-
19 viduals who are attaining ages 63, 64, and 65, the
20 statement shall also include a notice containing the
21 information described in subparagraph (B).

22 “(B) CONTENTS OF NOTICE.—The notice re-
23 quired under subparagraph (A) shall include a clear,
24 simple explanation of—

25 “(i) eligibility for benefits under the Medi-
26 care program under title XVIII, and in par-

1 ticular benefits under parts B and C of such
2 title;

3 “(ii) the reasons a late enrollment penalty
4 for failure to timely enroll could be assessed
5 and how such late enrollment penalty is cal-
6 culated, in particular for benefits under such
7 part B;

8 “(iii) the availability of relief from such
9 late enrollment penalty and retroactive enroll-
10 ment under section 1837(h) (including as such
11 section is applied under sections 1818(c) and
12 1818A(c)(3)), with examples of circumstances
13 under which such relief may be granted and ex-
14 amples of circumstances under which such relief
15 would not be granted;

16 “(iv) coordination of benefits (including
17 primary and secondary coverage scenarios) pur-
18 suant to section 1862(b), in particular for bene-
19 fits under such part B;

20 “(v) enrollment, eligibility, and coordina-
21 tion of benefits under title XVIII with respect
22 to populations, for whom there are special con-
23 siderations, such as residents of Puerto Rico
24 and veterans; and

“(vi) online resources and toll-free telephone numbers of the Social Security Administration and the Centers for Medicare & Medicaid Services (including 1–800–MEDICARE and the national toll-free number of the Social Security Administration) that provide information on eligibility for benefits under the Medicare program under title XVIII, including under part C of such title.

“(C) DEVELOPMENT OF NOTICE.—

“(i) IN GENERAL.—The Secretary, in coordination with the Commissioner of Social Security, and taking into consideration information collected pursuant to clause (ii), shall, not later than 12 months after the last day of the period for the request of information described in clause (ii), develop the notice to be provided pursuant to subparagraph (A).

“(ii) REQUEST FOR INFORMATION.—Not later than 6 months after the date of the enactment of this paragraph, the Secretary shall request written information, including recommendations, from stakeholders (including the groups described in subparagraph (D)) on the information to be included in the notice.

1 “(iii) NOTICE IMPROVEMENT.—Beginning
2 4 years after the date of the enactment of this
3 paragraph, and not less than once every 2 years
4 thereafter, the Secretary, in coordination with
5 the Commissioner of Social Security, shall—

6 “(I) review the content of the notice
7 to be provided under subparagraph (A);

8 “(II) request written information, in-
9 cluding recommendations, on such notice
10 through a request for information process
11 as described in clause (ii); and

12 “(III) update and revise such notice
13 as the Secretary deems appropriate.

14 “(D) GROUPS.—For purposes of subparagraph
15 (C)(ii), the groups described in this subparagraph
16 include the following:

17 “(i) Individuals who are 60 years of age or
18 older.

19 “(ii) Veterans.

20 “(iii) Individuals with disabilities.

21 “(iv) Individuals with end stage renal dis-
22 ease.

23 “(v) Low-income individuals and families.

24 “(vi) Employers (including human re-
25 sources professionals).

1 “(vii) States (including representatives of
2 State-run Health Insurance Exchanges, Med-
3 icaid offices, and Departments of Insurance).

4 “(viii) State Health Insurance Assistance
5 Programs.

6 “(ix) Health insurers.

7 “(x) Health insurance agents and brokers.

8 “(xi) Such other groups as specified by the
9 Secretary.

10 “(E) POSTING OF NOTICE ON WEBSITES.—The
11 Commissioner of Social Security and the Secretary
12 shall post the notice required under subparagraph
13 (A) on the public Internet website of the Social Se-
14 curity Administration and on Medicare.gov (or a
15 successor website), respectively.

16 “(F) REIMBURSEMENT OF COSTS.—

17 “(i) IN GENERAL.—Effective for fiscal
18 years beginning in the year in which the date
19 of enactment of this paragraph occurs, the
20 Commissioner of Social Security and the Sec-
21 retary shall enter into an agreement under
22 which the Secretary shall provide for the trans-
23 fer, from the Federal Hospital Insurance Trust
24 Fund under section 1817 and the Federal Sup-
25 plementary Medical Insurance Trust Fund

1 under section 1841 (in such proportion as the
2 Secretary determines appropriate), of such
3 sums as necessary to cover the administrative
4 costs of the Commissioner's activities under this
5 paragraph. Such agreement shall—

6 “(I) provide funds to the Commis-
7 sioner for the administrative costs of the
8 Social Security Administration's work re-
9 lated to the implementation of this para-
10 graph, including any initial costs incurred
11 prior to the finalization of such agreement;

12 “(II) provide such funding quarterly
13 in advance of the applicable quarter based
14 on estimating methodology agreed to by
15 the Commissioner and the Secretary; and

16 “(III) require an annual accounting
17 (with a detailed description of the costs
18 and methodology used to assess such costs)
19 and reconciliation of the actual costs in-
20 curred and funds provided under this para-
21 graph.

22 “(ii) LIMITATION.—In no case shall funds
23 from the Social Security Administration's Limi-
24 tation on Administrative Expenses be used to
25 carry out activities related to the implementa-

tion of this paragraph, except as the Commissioner determines is necessary—

“(I) for the development of the agreement under clause (i); and

“(II) on a temporary basis and subject to reimbursement under clause (i)(I), for the initial implementation of this paragraph.

“(G) NO EFFECT ON OBLIGATION TO MAIL STATEMENTS.—Nothing in this paragraph shall be construed to relieve the Commissioner of Social Security from any requirement under subsection (c), including the requirement to mail a statement on an annual basis to each eligible individual who is not receiving benefits under title II and for whom a mailing address can be determined through such methods as the Commissioner determines to be appropriate.”.

(B) TIMING OF STATEMENTS.—Section 1143(c)(2) of such Act (42 U.S.C. 1320b-13(c)(2)) is amended by adding at the end the following: “With respect to statements provided to individuals who are attaining age 65, as described in subsection (a)(4), such statements shall be mailed not earlier than 6 months and

1 not later than 3 months before the individual
2 attains such age.”

3 (2) SOCIAL SECURITY BENEFICIARIES.—Title
4 XI of the Social Security Act (42 U.S.C. 1301 et
5 seq.) is amended by inserting after section 1144 the
6 following new section:

7 “MEDICARE ENROLLMENT NOTIFICATION AND ELIGI-
8 BILITY NOTICES FOR SOCIAL SECURITY BENE-
9 FICIARIES PRIOR TO MEDICARE ELIGIBILITY

10 “Notices

11 “SEC. 1144A. (a)

12 “(1) IN GENERAL.—The Commissioner of So-
13 cial Security shall distribute the notice to be pro-
14 vided pursuant to section 1143(a)(4), as may be
15 modified under paragraph (2), to individuals entitled
16 to monthly insurance benefits under title II in ac-
17 cordance with subsection (b).

18 “(2) AUTHORITY TO MODIFY NOTICE.—The
19 Secretary, in coordination with the Commissioner of
20 Social Security, may modify the notice to be distrib-
21 uted under paragraph (1) as necessary to take into
22 account the individuals described in such paragraph.

23 “(3) POSTING OF NOTICE ON WEBSITES.—The
24 Commissioner of Social Security and the Secretary
25 shall post the notice required to be distributed under
26 paragraph (1) on the public Internet website of the

1 Social Security Administration and on Medicare.gov
2 (or a successor website), respectively.

3 “Timing

4 “(b) Beginning not later than 2 years after the date
5 of the enactment of this section, a notice required under
6 subsection (a)(1) shall be mailed to an individual described
7 in such subsection—

8 “(1) in the third month before the date on
9 which such individual’s initial enrollment period be-
10 gins as provided under section 1837; and

11 “(2) in the case of an individual with respect to
12 whom section 226(b) applies (except for an indi-
13 vidual who will attain age 65 during the 24 month
14 period described in such section), in the month be-
15 fore such date on which such individual’s initial en-
16 rollment period so begins.

17 “Reimbursement of Costs

18 “(c)

19 “(1) IN GENERAL.—Effective for fiscal years
20 beginning in the year in which the date of enactment
21 of this section occurs, the Commissioner of Social
22 Security and the Secretary shall enter into an agree-
23 ment under which the Secretary shall provide for the
24 transfer, from the Federal Hospital Insurance Trust
25 Fund under section 1817 and the Federal Supple-

1 mentary Medical Insurance Trust Fund under sec-
2 tion 1841 (in such proportion as the Secretary de-
3 termines appropriate), of such sums as necessary to
4 cover the administrative costs of the Commissioner's
5 activities under this section. Such agreement shall—

6 “(A) provide funds to the Commissioner
7 for the administrative costs of the Social Secu-
8 rity Administration's work related to the imple-
9 mentation of this section, including any initial
10 costs incurred prior to the finalization of such
11 agreement;

12 “(B) provide such funding quarterly in ad-
13 vance of the applicable quarter based on esti-
14 mating methodology agreed to by the Commis-
15 sioner and the Secretary; and

16 “(C) require an annual accounting (with a
17 detailed description of the costs and method-
18 ology used to assess such costs) and reconcili-
19 ation of the actual costs incurred and funds
20 provided under this paragraph.

21 “(2) LIMITATION.—In no case shall funds from
22 the Social Security Administration's Limitation on
23 Administrative Expenses be used to carry out activi-
24 ties related to the implementation of this section, ex-
25 cept as the Commissioner determines is necessary—

1 “(A) for the development of the agreement
2 under paragraph (1); and

3 “(B) on a temporary basis and subject to
4 reimbursement under paragraph (1)(A), for the
5 initial implementation of this section.”.

6 (b) BENEFICIARY ENROLLMENT SIMPLIFICATION.—

7 (1) EFFECTIVE DATE OF COVERAGE.—Section
8 1838(a) of the Social Security Act (42 U.S.C.
9 1395q(a)) is amended—

10 (A) by amending paragraph (2) to read as
11 follows:

12 “(2)(A) in the case of an individual who enrolls
13 pursuant to subsection (d) of section 1837 before
14 the month in which he first satisfies paragraph (1)
15 or (2) of section 1836(a), the first day of such
16 month,

17 “(B) in the case of an individual who first sat-
18 isfies such paragraph in a month beginning before
19 January 2023 and who enrolls pursuant to such
20 subsection (d)—

21 “(i) in such month in which he first satis-
22 fies such paragraph, the first day of the month
23 following the month in which he so enrolls,

24 “(ii) in the month following such month in
25 which he first satisfies such paragraph, the first

1 day of the second month following the month in
2 which he so enrolls, or

3 “(iii) more than one month following such
4 month in which he satisfies such paragraph, the
5 first day of the third month following the
6 month in which he so enrolls,

7 “(C) in the case of an individual who first satis-
8 fies such paragraph in a month beginning on or
9 after January 1, 2023, and who enrolls pursuant to
10 such subsection (d) in such month in which he first
11 satisfies such paragraph or in any subsequent month
12 of his initial enrollment period, the first day of the
13 month following the month in which he so enrolls, or

14 “(D) in the case of an individual who enrolls
15 pursuant to subsection (e) of section 1837 in a
16 month beginning—

17 “(i) before January 1, 2023, the July 1
18 following the month in which he so enrolls; or

19 “(ii) on or after January 1, 2023, the first
20 day of the month following the month in which
21 he so enrolls; or”; and

22 (B) by amending paragraph (3) to read as
23 follows:

24 “(3) in the case of an individual who is deemed
25 to have enrolled—

1 “(A) on or before the last day of the third
 2 month of his initial enrollment period, the first
 3 day of the month in which he first meets the
 4 applicable requirements of section 1836(a) or
 5 July 1, 1973, whichever is later, or

6 “(B) on or after the first day of the fourth
 7 month of his initial enrollment period, and
 8 where such month begins—

9 “(i) before January 1, 2023, as pre-
 10 scribed under subparagraphs (B)(i),
 11 (B)(ii), (B)(iii), and (D)(i) of paragraph
 12 (2), or

13 “(ii) on or after January 1, 2023, as
 14 prescribed under subparagraphs (C) and
 15 (D)(ii) of paragraph (2).”.

16 (2) SPECIAL ENROLLMENT PERIODS FOR EX-
 17 CEPTIONAL CIRCUMSTANCES.—

18 (A) ENROLLMENT.—Section 1837 of the
 19 Social Security Act (42 U.S.C. 1395p) is
 20 amended by adding at the end the following
 21 new subsection:

22 “(m) Beginning January 1, 2023, the Secretary may
 23 establish special enrollment periods in the case of individ-
 24 uals who satisfy paragraph (1) or (2) of section 1836(a)

1 and meet such exceptional conditions as the Secretary may
2 provide.”.

3 (B) COVERAGE PERIOD.—Section 1838 of
4 the Social Security Act (42 U.S.C. 1395q) is
5 amended by adding at the end the following
6 new subsection:

7 “(g) Notwithstanding subsection (a), in the case of
8 an individual who enrolls during a special enrollment pe-
9 riod pursuant to section 1837(m), the coverage period
10 shall begin on a date the Secretary provides in a manner
11 consistent (to the extent practicable) with protecting con-
12 tinuity of health benefit coverage.”.

13 (C) CONFORMING AMENDMENT.—Title
14 XVIII of the Social Security Act (42 U.S.C.
15 1395 et seq.) is amended—

16 (i) in section 1818A(c)(3), by striking
17 “subsections (h) and (i) of section 1837”
18 and inserting “subsections (h), (i), and (m)
19 of section 1837”; and

20 (ii) in section 1839(b), in the first
21 sentence, by striking “or (l)” and inserting
22 “, (l), or (m)”.

23 (3) TECHNICAL CORRECTION.—Section 1839(b)
24 of the Social Security Act (42 U.S.C. 1395r(b)) is
25 amended by adding at the end the following new

1 sentence: “For purposes of determining any increase
2 under this subsection for individuals whose enroll-
3 ment occurs on or after January 1, 2023, the second
4 sentence of this subsection shall be applied by sub-
5 stituting ‘close of the month’ for ‘close of the enroll-
6 ment period’ each place it appears.”.

7 (4) REPORT.—Not later than January 1, 2023,
8 the Secretary of Health and Human Services shall
9 submit to the Committee on Ways and Means and
10 Committee on Energy and Commerce of the House
11 of Representatives and the Committee on Finance
12 and Special Committee on Aging of the Senate a re-
13 port on how to align existing Medicare enrollment
14 periods under title XVIII of the Social Security Act,
15 including the general enrollment period under part
16 B of such title and the annual, coordinated election
17 period under the Medicare Advantage program
18 under part C of such title and under the prescription
19 drug program under part D of such title. Such re-
20 port shall include recommendations consistent with
21 the goals of maximizing coverage continuity and
22 choice and easing beneficiary transition.

23 (5) GAO STUDY AND REPORT.—

24 (A) STUDY.—The Comptroller General of
25 the United States (in this section referred to as

1 the “Comptroller General”) shall conduct a
2 study on the activities carried out under this
3 section. Such study shall include the following:

4 (i) An analysis of the Social Security
5 Administration’s use of the funds provided
6 to carry out the activities described under
7 this section and the amendments made by
8 this section. The Comptroller General shall
9 examine the amount of funds transferred
10 from the Federal Hospital Insurance Trust
11 Fund and the Federal Supplementary
12 Medical Insurance Trust Fund, respec-
13 tively, for those activities; how the funds
14 were spent; what procedures the agency
15 had in place over the use of those funds;
16 and how the agency complied with those
17 procedures.

18 (ii) An evaluation of the notices de-
19 scribed in sections 1143(a)(4)(A) and
20 1144A(a) of the Social Security Act, in-
21 cluding, to the extent data is available,
22 how the mailing of such notices affected
23 enrollee behavior and the imposition of late
24 enrollment penalties under Medicare Part
25 B.

1 (iii) Any other area determined appro-
2 priate by the Comptroller General.

3 (B) REPORT.—Not later than 5 years after
4 the date of enactment of this section, the
5 Comptroller General shall submit to the Com-
6 mittee on Ways and Means and Committee on
7 Energy and Commerce of the House of Rep-
8 resentatives and the Committee on Finance of
9 the Senate a report containing the results of
10 the study conducted under paragraph (1), in-
11 cluding recommendations for any legislative and
12 administrative actions as the Comptroller Gen-
13 eral determines appropriate.

14 (c) FUNDING.—Section 1808 of the Social Security
15 Act (42 U.S.C. 1395b–9) is amended by adding the end
16 the following new subsection:

17 “(e) FUNDING FOR IMPLEMENTATION OF BENE-
18 FICIARY ENROLLMENT NOTIFICATION AND ELIGIBILITY
19 SIMPLIFICATION.—For purposes of carrying out the provi-
20 sions of and the amendments made by section 2 of the
21 BENES Act of 2020, the Secretary shall provide for the
22 transfer, from the Federal Hospital Insurance Trust Fund
23 under section 1817 and the Federal Supplementary Med-
24 ical Insurance Trust Fund under section 1841 (in such
25 proportion as the Secretary determines appropriate), to

1 the Centers for Medicare & Medicaid Services Program
 2 Management Account, of \$2,000,000 for each fiscal year
 3 beginning with fiscal year 2021, to remain available until
 4 expended.”.

5 **SEC. 3. EXTENDED MONTHS OF COVERAGE OF IMMUNO-**
 6 **SUPPRESSIVE DRUGS FOR KIDNEY TRANS-**
 7 **PLANT PATIENTS AND OTHER RENAL DIALY-**
 8 **SIS PROVISIONS.**

9 (a) MEDICARE ENTITLEMENT TO IMMUNO-
 10 SUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPI-
 11 ENTS.—

12 (1) IN GENERAL.—Section 226A(b)(2) of the
 13 Social Security Act (42 U.S.C. 426–1(b)(2)) is
 14 amended by inserting “(except for eligibility for en-
 15 rollment under part B solely for purposes of cov-
 16 erage of immunosuppressive drugs described in sec-
 17 tion 1861(s)(2)(J))” before “, with the thirty-sixth
 18 month”.

19 (2) INDIVIDUALS ELIGIBLE ONLY FOR COV-
 20 ERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

21 (A) IN GENERAL.—Section 1836 of the So-
 22 cial Security Act (42 U.S.C. 1395o) is amend-
 23 ed—

24 (i) by striking “Every” and inserting
 25 “(a) IN GENERAL.—Every”; and

1 (ii) by adding at the end the following
2 new subsection:

3 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-
4 SUPPRESSIVE DRUG COVERAGE.—

5 “(1) IN GENERAL.—Except as provided under
6 paragraph (2), every individual whose entitlement to
7 insurance benefits under part A ends (whether be-
8 fore, on, or after January 1, 2023) by reason of sec-
9 tion 226A(b)(2) is eligible to enroll or to be deemed
10 to have enrolled in the medical insurance program
11 established by this part solely for purposes of cov-
12 erage of immunosuppressive drugs in accordance
13 with section 1837(n).

14 “(2) EXCEPTION IF OTHER COVERAGE IS
15 AVAILABLE.—

16 “(A) IN GENERAL.—An individual de-
17 scribed in paragraph (1) shall not be eligible for
18 enrollment in the program for purposes of cov-
19 erage described in such paragraph with respect
20 to any period in which the individual, as deter-
21 mined in accordance with subparagraph (B)—

22 “(i) is enrolled in a group health plan
23 or group or individual health insurance
24 coverage, as such terms are defined in sec-

tion 2791 of the Public Health Service Act;

“(ii) is enrolled for coverage under the TRICARE for Life program under section 1086(d) of title 10, United States Code;

“(iii) is enrolled under a State plan (or waiver of such plan) under title XIX and is eligible to receive benefits for immunosuppressive drugs described in this subsection under such plan (or such waiver);

“(iv) is enrolled under a State child health plan (or waiver of such plan) under title XXI and is eligible to receive benefits for such drugs under such plan (or such waiver); or

“(v)(I) is enrolled in the patient enrollment system of the Department of Veterans Affairs established and operated under section 1705 of title 38, United States Code;

“(II) is not required to enroll under section 1705 of such title to receive immunosuppressive drugs described in this subsection; or

1 “(III) is otherwise eligible under a
2 provision of title 38, United States Code,
3 other than section 1710 of such title to re-
4 ceive immunosuppressive drugs described
5 in this subsection.

6 “(B) ELIGIBILITY DETERMINATIONS.—

7 “(i) IN GENERAL.—The Secretary, in
8 coordination with the Commissioner of So-
9 cial Security, shall establish a process for
10 determining whether an individual de-
11 scribed in paragraph (1) who is to be en-
12 rolled or deemed to be enrolled in the med-
13 ical insurance program described in such
14 paragraph meets the requirements for such
15 enrollment under this subsection, including
16 the requirement that the individual not be
17 enrolled in other coverage as described in
18 subparagraph (A).

19 “(ii) ATTESTATION REGARDING
20 OTHER COVERAGE.—The process estab-
21 lished under clause (i) shall include, at a
22 minimum, a requirement that—

23 “(I) the individual provide to the
24 Commissioner an attestation that the
25 individual is not enrolled and does not

1 expect to enroll in such other cov-
 2 erage; and

3 “(II) the individual notify the
 4 Commissioner within 60 days of en-
 5 rollment in such other coverage.”.

6 (B) CONFORMING AMENDMENT.—

7 (i) IN GENERAL.—Sections 1837,
 8 1838, and 1839 of the Social Security Act
 9 (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42
 10 U.S.C. 1395r) are each amended by strik-
 11 ing “1836” and inserting “1836(a)” each
 12 place it appears.

13 (ii) ADDITIONAL AMENDMENT.—Sec-
 14 tion 1837(j)(1) of such Act (42 U.S.C.
 15 1395p(j)(1)) is amended by striking
 16 “1836(1)” and inserting “1836(a)(1)”.

17 (b) ENROLLMENT FOR INDIVIDUALS ONLY ELIGIBLE
 18 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
 19 tion 1837 of the Social Security Act (42 U.S.C. 1395p),
 20 as amended by section 2(b)(2)(A), is further amended by
 21 adding at the end the following new subsection:

22 “(n)(1) Any individual who is eligible for coverage of
 23 immunosuppressive drugs under section 1836(b) may en-
 24 roll or be deemed to have enrolled only in such manner

1 and form as may be prescribed by regulations, and only
2 during an enrollment period described in this subsection.

3 “(2) An individual described in paragraph (1) whose
4 entitlement for hospital insurance benefits under part A
5 ends by reason of section 226A(b)(2) prior to January 1,
6 2023, may enroll beginning on October 1, 2022, or the
7 day on which the individual first satisfies section 1836(b),
8 whichever is later.

9 “(3) An individual described in paragraph (1) whose
10 entitlement for hospital insurance benefits under part A
11 ends by reason of section 226A(b)(2) on or after January
12 1, 2023, shall be deemed to have enrolled in the medical
13 insurance program established by this part for purposes
14 of coverage of immunosuppressive drugs.

15 “(4) The Secretary shall establish a process under
16 which an individual described in paragraph (1) whose
17 other coverage described in section 1836(b)(2)(A), or cov-
18 erage under this part (including the medical insurance
19 program established under this part for purposes of cov-
20 erage of immunosuppressive drugs), is terminated volun-
21 tarily or involuntary may enroll or reenroll, if applicable,
22 in the medical insurance program established under this
23 part for purposes of coverage of immunosuppressive
24 drugs.”.

1 (c) COVERAGE PERIOD FOR INDIVIDUALS ONLY ELI-
2 GIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE
3 DRUGS.—

4 (1) IN GENERAL.—Section 1838 of the Social
5 Security Act (42 U.S.C. 1395q), as amended by sec-
6 tion 2(b)(2)(B), is further amended by adding at the
7 end the following new subsection:

8 “(h) In the case of an individual described in section
9 1836(b)(1), the following rules shall apply:

10 “(1) In the case of such an individual who is
11 deemed to have enrolled in part B for coverage of
12 immunosuppressive drugs under section 1837(n)(3),
13 such individual’s coverage period shall begin on the
14 first day of the month in which the individual first
15 satisfies section 1836(b).

16 “(2) In the case of such an individual who en-
17 rolls (or reenrolls, if applicable) in part B for cov-
18 erage of immunosuppressive drugs under paragraph
19 (2) or (4) of section 1837(n), such individual’s cov-
20 erage period shall begin on January 1, 2023, or the
21 month following the month in which the individual
22 so enrolls (or reenrolls), whichever is later.

23 “(3) The provisions of subsections (b) and (d)
24 shall apply with respect to an individual described in
25 paragraph (1) or (2).

1 “(4) In addition to the reasons for termination
2 under subsection (b), the coverage period of an indi-
3 vidual described in paragraph (1) or (2) shall end
4 when the individual becomes entitled to benefits
5 under this title under subsection (a) or (b) of section
6 226, or under section 226A, or is no longer eligible
7 for such coverage as a result of the application of
8 section 1836(b)(2).

9 “(5) The Secretary may conduct public edu-
10 cation activities to raise awareness of the availability
11 of more comprehensive, individual health insurance
12 coverage (as defined in section 2791 of the Public
13 Health Service Act) for individuals eligible under
14 section 1836(b) to enroll or to be deemed enrolled in
15 the medical insurance program established under
16 this part for purposes of coverage of immuno-
17 suppressive drugs.”.

18 (2) CONFORMING AMENDMENTS.—Section
19 1838(b) of the Social Security Act (42 U.S.C.
20 1395q(b)) is amended, in the matter following para-
21 graph (2), by inserting “or section 1837(n)(3)” after
22 “section 1837(f)” each place it appears.

23 (d) PREMIUMS FOR INDIVIDUALS ONLY ELIGIBLE
24 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

1 (1) IN GENERAL.—Section 1839 of the Social
2 Security Act (42 U.S.C. 1395r) is amended—

3 (A) in subsection (b), by adding at the end
4 the following new sentence: “No increase in the
5 premium shall be effected for individuals who
6 are enrolled pursuant to section 1836(b) for
7 coverage only of immunosuppressive drugs.”;
8 and

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

11 “(j) DETERMINATION OF PREMIUM FOR INDIVID-
12 UALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNO-
13 SUPPRESSIVE DRUGS.—The Secretary shall, during Sep-
14 tember of each year (beginning with 2022), determine and
15 promulgate a monthly premium rate for the succeeding
16 calendar year for individuals enrolled only for the purpose
17 of coverage of immunosuppressive drugs under section
18 1836(b). Such premium shall be equal to 15 percent of
19 the monthly actuarial rate for enrollees age 65 and over
20 (as would be determined in accordance with subsection
21 (a)(1) if the reference to ‘one-half’ in such subsection were
22 a reference to ‘100 percent’) for that succeeding calendar
23 year. The monthly premium of each individual enrolled for
24 coverage of immunosuppressive drugs under section
25 1836(b) for each month shall be the amount promulgated

1 in this subsection. In the case of such individual not other-
 2 wise enrolled under this part, such premium shall be in
 3 lieu of any other monthly premium applicable under this
 4 section. Such amount shall be adjusted in accordance with
 5 subsections (c), (f), and (i), but shall not be adjusted
 6 under subsection (b).”.

7 (2) SPECIAL RULE FOR APPLICATION OF HOLD
 8 HARMLESS PROVISIONS TO TRANSITIONING INDIVID-
 9 UALS.—Section 1839(f) of the Social Security Act
 10 (42 U.S.C. 1395r(f)) is amended by adding at the
 11 end the following new sentence: “Any increase in the
 12 premium for an individual who was enrolled under
 13 section 1836(b) attributable to such individual oth-
 14 erwise enrolling under this part shall not be taken
 15 into account in applying this subsection.”.

16 (3) SPECIAL RULE FOR APPLICATION OF PRE-
 17 MIUM SUBSIDY REDUCTION PROVISIONS.—Section
 18 1839(i)(3)(A)(ii)(II) of the Social Security Act (42
 19 U.S.C. 1395r(i)(3)(A)(ii)(II)) is amended by insert-
 20 ing “except in the case of an individual enrolled
 21 under section 1836(b) and not otherwise enrolled
 22 under this part,” before “4 times”.

23 (e) GOVERNMENT CONTRIBUTION.—Section 1844(a)
 24 of the Social Security Act (42 U.S.C. 1395w(a)) is amend-
 25 ed—

1 (1) in paragraph (3), by striking the period at
2 the end and inserting “; plus”;

3 (2) by inserting after paragraph (3) the fol-
4 lowing new paragraph:

5 “(4) a Government contribution equal to the es-
6 timated aggregate reduction in premiums payable
7 under part B that results from establishing the pre-
8 mium at 15 percent of the actuarial rate (as would
9 be determined in accordance with section 1839(a)(1)
10 if the reference to ‘one-half’ in such section were a
11 reference to ‘100 percent’) under section 1839(j) in-
12 stead of 25 percent of such rate (as so determined)
13 for individuals enrolled only for the purpose of cov-
14 erage of immunosuppressive drugs under section
15 1836(b).”; and

16 (3) by adding the following sentence at the end
17 of the flush matter following paragraph (4), as
18 added by paragraph (2) of this subsection:

19 “The Government contribution under paragraph (4)
20 shall be treated as premiums payable and deposited
21 for purposes of subparagraphs (A) and (B) of para-
22 graph (1).”.

23 (f) ENSURING COVERAGE UNDER THE MEDICARE
24 SAVINGS PROGRAM.—

1 (1) IN GENERAL.—Section 1905(p)(1)(A) of the
2 Social Security Act (42 U.S.C. 1396d(p)(1)(A)) is
3 amended by inserting “or who is enrolled under part
4 B for the purpose of coverage of immunosuppressive
5 drugs under section 1836(b)” after “under section
6 1818A”).

7 (2) CONFORMING AMENDMENTS.—Section
8 1902(a)(10)(E) of the Social Security Act (42
9 U.S.C. 1396a(a)(10)(E)) is amended in each of
10 clauses (iii) and (iv) by inserting “(including such
11 individuals enrolled under section 1836(b))” after
12 “section 1905(p)(1)”.

13 (g) PART D.—Section 1860D–1(a)(3)(A) of the So-
14 cial Security Act (42 U.S.C. 1395w–101(a)(3)(A)) is
15 amended by inserting “(but not including an individual en-
16 rolled solely for coverage of immunosuppressive drugs
17 under section 1836(b))” before the period at the end.

18 (h) GAO STUDY AND REPORT.—

19 (1) STUDY.—The Comptroller General of the
20 United States (in this subsection referred to as the
21 “Comptroller General”) shall conduct a study on the
22 implementation of coverage of immunosuppressive
23 drugs for kidney transplant patients under the Medi-
24 care program pursuant to the provisions of, and
25 amendments made by, this section.

1 (2) REPORT.—Not later than January 1, 2025,
 2 the Comptroller General shall submit to Congress a
 3 report on the study conducted under paragraph (1),
 4 together with recommendations as the Comptroller
 5 General determines appropriate.

6 **SEC. 4. TRANSPARENCY OF MEDICARE SECONDARY PAYER**
 7 **REPORTING INFORMATION.**

8 (a) IN GENERAL.—Section 1862(b)(8)(G) of the So-
 9 cial Security Act (42 U.S.C. 395y(b)(8)(G)) is amended—
 10 (1) by striking “INFORMATION.—The Sec-
 11 retary” and inserting “INFORMATION.—

12 “(i) IN GENERAL.—The Secretary”;
 13 and

14 (2) by adding at the end the following new
 15 clause:

16 “(ii) SPECIFIED INFORMATION.—In
 17 responding to any query from an applica-
 18 ble plan related to a determination de-
 19 scribed in subparagraph (A)(i), the Sec-
 20 retary, notwithstanding any other provision
 21 of law, shall provide to such applicable
 22 plan—

23 “(I) whether a claimant subject
 24 to the query is, or during the pre-
 25 ceding 3-year period has been, entitled

1 to benefits under the program under
 2 this title on any basis; and

3 “(II) to the extent applicable, the
 4 plan name and address of any Medi-
 5 care Advantage plan under part C
 6 and any prescription drug plan under
 7 part D in which the claimant is en-
 8 rolled or has been enrolled during
 9 such period.”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 subsection (a) shall apply with respect to queries from
 12 plans made on or after the date that is one year after
 13 the date of the enactment of this Act.

14 **SEC. 5. ESTABLISHING HOSPICE PROGRAM SURVEY AND**
 15 **ENFORCEMENT PROCEDURES UNDER THE**
 16 **MEDICARE PROGRAM.**

17 (a) SURVEY AND ENFORCEMENT PROCEDURES.—

18 (1) IN GENERAL.—Part A of title XVIII of the
 19 Social Security Act (42 U.S.C. 1395c et seq.) is
 20 amended by adding at the end the following new sec-
 21 tion:

22 **“SEC. 1822. HOSPICE PROGRAM SURVEY AND ENFORCE-**
 23 **MENT PROCEDURES.**

24 “(a) SURVEYS.—

1 “(1) FREQUENCY.—Any entity that is certified
2 as a hospice program shall be subject to a standard
3 survey by an appropriate State or local survey agen-
4 cy, or an approved accreditation agency, as deter-
5 mined by the Secretary, not less frequently than
6 once every 36 months (and not less frequently than
7 once every 24 months beginning October 1, 2021).

8 “(2) PUBLIC TRANSPARENCY OF SURVEY AND
9 CERTIFICATION INFORMATION.—

10 “(A) SUBMISSION OF INFORMATION TO
11 THE SECRETARY.—

12 “(i) IN GENERAL.—Each State, and
13 each national accreditation body with re-
14 spect to which the Secretary has made a
15 finding under section 1865(a) respecting
16 the accreditation of a hospice program by
17 such body, shall submit, in a form and
18 manner, and at a time, specified by the
19 Secretary for purposes of this subpara-
20 graph, information respecting any survey
21 or certification made with respect to a hos-
22 pice program by such State or body, as ap-
23 plicable. Such information shall include
24 any inspection report made by such State
25 or body with respect to such survey or cer-

1 tification, any enforcement actions taken
2 as a result of such survey or certification,
3 and any other information determined ap-
4 propriate by the Secretary.

5 “(ii) REQUIRED INCLUSION OF SPECI-
6 FIED FORM.—With respect to a survey
7 under this subsection carried out by a na-
8 tional accreditation body described in
9 clause (i) on or after October 1, 2021, in-
10 formation described in such clause shall in-
11 clude Form 2567 (or a successor form),
12 along with such additional information de-
13 termined appropriate by such body.

14 “(B) PUBLIC DISCLOSURE OF INFORMA-
15 TION.—Beginning not later than October 1,
16 2022, the Secretary shall publish the informa-
17 tion submitted under subparagraph (A) on the
18 public website of the Centers for Medicare &
19 Medicaid Services in a manner that is promi-
20 nent, easily accessible, readily understandable,
21 and searchable. The Secretary shall provide for
22 the timely update of such information so pub-
23 lished.

24 “(3) CONSISTENCY OF SURVEYS.—Each State
25 and the Secretary shall implement programs to

1 measure and reduce inconsistency in the application
2 of survey results among surveyors.

3 “(4) SURVEY TEAMS.—

4 “(A) IN GENERAL.—In the case of a sur-
5 vey conducted under this subsection on or after
6 October 1, 2021, by more than 1 individual,
7 such survey shall be conducted by a multidisci-
8 plinary team of professionals (including a reg-
9 istered professional nurse).

10 “(B) PROHIBITION OF CONFLICTS OF IN-
11 TEREST.—Beginning October 1, 2021, a State
12 may not use as a member of a survey team
13 under this subsection an individual who is serv-
14 ing (or has served within the previous 2 years)
15 as a member of the staff of, or as a consultant
16 to, the program surveyed respecting compliance
17 with the requirements of section 1861(dd) or
18 who has a personal or familial financial interest
19 in the program being surveyed.

20 “(C) TRAINING.—The Secretary shall pro-
21 vide, not later than October 1, 2021, for the
22 comprehensive training of State and Federal
23 surveyors, and any surveyor employed by a na-
24 tional accreditation body described in paragraph
25 (2)(A)(i), in the conduct of surveys under this

1 subsection, including training with respect to
2 the review of written plans for providing hospice
3 care (as described in section 1814(a)(7)(B)).

4 No individual shall serve as a member of a sur-
5 vey team with respect to a survey conducted on
6 or after such date unless the individual has suc-
7 cessfully completed a training and testing pro-
8 gram in survey and certification techniques that
9 has been approved by the Secretary.

10 “(5) FUNDING.—The Secretary shall provide
11 for the transfer, from the Federal Hospital Insur-
12 ance Trust Fund under section 1817 to the Centers
13 for Medicare & Medicaid Services Program Manage-
14 ment Account, of \$10,000,000 for each fiscal year
15 (beginning with fiscal year 2022) for purposes of
16 carrying out this subsection and subsection (b).
17 Sums so transferred shall remain available until ex-
18 pended. Any transfer pursuant to this paragraph
19 shall be in addition to any transfer pursuant to sec-
20 tion 3(a)(2) of the Improving Medicare Post-Acute
21 Care Transformation Act of 2014.

22 “(b) SPECIAL FOCUS PROGRAM.—

23 “(1) IN GENERAL.—The Secretary shall con-
24 duct a special focus program for enforcement of re-
25 quirements for hospice programs that the Secretary

1 has identified as having substantially failed to meet
2 applicable requirements of this Act.

3 “(2) PERIODIC SURVEYS.—Under such special
4 focus program, the Secretary shall conduct surveys
5 of each hospice program in the special focus pro-
6 gram not less than once every 6 months.

7 “(c) ENFORCEMENT.—

8 “(1) SITUATIONS INVOLVING IMMEDIATE JEOP-
9 ARDY.—If the Secretary determines on the basis of
10 a standard survey or otherwise that a hospice pro-
11 gram that is certified for participation under this
12 title is no longer in compliance with the require-
13 ments specified in section 1861(dd) and determines
14 that the deficiencies involved immediately jeopardize
15 the health and safety of the individuals to whom the
16 program furnishes items and services, the Secretary
17 shall take immediate action to remove the jeopardy
18 and correct the deficiencies through the remedy de-
19 scribed in paragraph (5)(B)(iii) or terminate the cer-
20 tification of the program, and may provide, in addi-
21 tion, for 1 or more of the other remedies described
22 in paragraph (5)(B).

23 “(2) SITUATIONS NOT INVOLVING IMMEDIATE
24 JEOPARDY.—If the Secretary determines on the
25 basis of a standard survey or otherwise that a hos-

1 pice program that is certified for participation under
2 this title is no longer in compliance with the require-
3 ments specified in section 1861(dd) and determines
4 that the deficiencies involved do not immediately
5 jeopardize the health and safety of the individuals to
6 whom the program furnishes items and services, the
7 Secretary may (for a period not to exceed 6 months)
8 impose remedies developed pursuant to paragraph
9 (5)(A), in lieu of terminating the certification of the
10 program. If, after such a period of remedies, the
11 program is still no longer in compliance with such
12 requirements, the Secretary shall terminate the cer-
13 tification of the program.

14 “(3) PENALTY FOR PREVIOUS NONCOMPLI-
15 ANCE.—If the Secretary determines that a hospice
16 program that is certified for participation under this
17 title is in compliance with the requirements specified
18 in section 1861(dd) but, as of a previous period, did
19 not meet such requirements, the Secretary may pro-
20 vide for a civil monetary penalty under paragraph
21 (5)(B)(i) for the days in which the Secretary finds
22 that the program was not in compliance with such
23 requirements.

24 “(4) OPTION TO CONTINUE PAYMENTS FOR
25 NONCOMPLIANT HOSPICE PROGRAMS.—The Sec-

1 retary may continue payments under this title with
2 respect to a hospice program not in compliance with
3 the requirements specified in section 1861(dd) over
4 a period of not longer than 6 months, if—

5 “(A) the State or local survey agency finds
6 that it is more appropriate to take alternative
7 action to assure compliance of the program with
8 such requirements than to terminate the certifi-
9 cation of the program;

10 “(B) the program has submitted a plan
11 and timetable for corrective action to the Sec-
12 retary for approval and the Secretary approves
13 the plan of corrective action; and

14 “(C) the program agrees to repay to the
15 Federal Government payments received under
16 this title during such period if the corrective ac-
17 tion is not taken in accordance with the ap-
18 proved plan and timetable.

19 The Secretary shall establish guidelines for approval
20 of corrective actions requested by hospice programs
21 under this paragraph.

22 “(5) REMEDIES.—

23 “(A) DEVELOPMENT.—

1 “(i) IN GENERAL.—Not later than Oc-
2 tober 1, 2021, the Secretary shall develop
3 and implement—

4 “(I) a range of remedies to apply
5 to hospice programs under the condi-
6 tions described in paragraphs (1)
7 through (4); and

8 “(II) appropriate procedures for
9 appealing determinations relating to
10 the imposition of such remedies.

11 Remedies developed pursuant to the pre-
12 ceding sentence shall include the remedies
13 specified in subparagraph (B).

14 “(ii) CONDITIONS OF IMPOSITION OF
15 REMEDIES.—Not later than October 1,
16 2021, the Secretary shall develop and im-
17 plement specific procedures with respect to
18 the conditions under which each of the
19 remedies developed under clause (i) is to
20 be applied, including the amount of any
21 fines and the severity of each of these rem-
22 edies. Such procedures shall be designed so
23 as to minimize the time between identifica-
24 tion of deficiencies and imposition of these
25 remedies and shall provide for the imposi-

1 tion of incrementally more severe fines for
2 repeated or uncorrected deficiencies.

3 “(B) SPECIFIED REMEDIES.—The rem-
4 edies specified in this subparagraph are the fol-
5 lowing:

6 “(i) Civil monetary penalties in an
7 amount not to exceed \$10,000 for each day
8 of noncompliance by a hospice program
9 with the requirements specified in section
10 1861(dd).

11 “(ii) Suspension of all or part of the
12 payments to which a hospice program
13 would otherwise be entitled under this title
14 with respect to items and services fur-
15 nished by a hospice program on or after
16 the date on which the Secretary determines
17 that remedies should be imposed pursuant
18 to paragraph (2).

19 “(iii) The appointment of temporary
20 management to oversee the operation of
21 the hospice program and to protect and as-
22 sure the health and safety of the individ-
23 uals under the care of the program while
24 improvements are made in order to bring

1 the program into compliance with all such
2 requirements.

3 “(C) PROCEDURES.—

4 “(i) CIVIL MONETARY PENALTIES.—

5 “(I) IN GENERAL.—Subject to
6 subclause (II), the provisions of sec-
7 tion 1128A (other than subsections
8 (a) and (b)) shall apply to a civil mon-
9 etary penalty under this subsection in
10 the same manner as such provisions
11 apply to a penalty or proceeding
12 under section 1128A(a).

13 “(II) RETENTION OF AMOUNTS
14 FOR HOSPICE PROGRAM IMPROVE-
15 MENTS.—The Secretary may provide
16 that any portion of civil monetary
17 penalties collected under this sub-
18 section may be used to support activi-
19 ties that benefit individuals receiving
20 hospice care, including education and
21 training programs to ensure hospice
22 program compliance with the require-
23 ments of section 1861(dd).

24 “(ii) SUSPENSION OF PAYMENT.—A
25 finding to suspend payment under sub-

1 paragraph (B)(ii) shall terminate when the
2 Secretary finds that the program is in sub-
3 stantial compliance with all such require-
4 ments.

5 “(iii) TEMPORARY MANAGEMENT.—
6 The temporary management under sub-
7 paragraph (B)(iii) shall not be terminated
8 until the Secretary has determined that the
9 program has the management capability to
10 ensure continued compliance with all the
11 requirements referred to in such subpara-
12 graph.

13 “(D) RELATIONSHIP TO OTHER REM-
14 EDIES.—The remedies developed under sub-
15 paragraph (A) are in addition to sanctions oth-
16 erwise available under State or Federal law and
17 shall not be construed as limiting other rem-
18 edies, including any remedy available to an indi-
19 vidual at common law.”.

20 (2) AVAILABILITY OF HOSPICE ACCREDITATION
21 SURVEYS.—Section 1865(b) of the Social Security
22 Act (42 U.S.C. 1395bb(b)) is amended by inserting
23 “or, beginning on the date of the enactment of the
24 BENES Act of 2020, a hospice program” after
25 “home health agency”.

1 (3) STATE PROVISION OF HOSPICE PROGRAM
2 INFORMATION.—

3 (A) IN GENERAL.—Section 1864(a) of the
4 Social Security Act (42 U.S.C. 1395aa(a)) is
5 amended in the sixth sentence—

6 (i) by inserting “and hospice pro-
7 grams” after “information on home health
8 agencies”;

9 (ii) by inserting “or the hospice pro-
10 gram” after “the home health agency”;

11 (iii) by inserting “or the hospice pro-
12 gram” after “with respect to the agency”;
13 and

14 (iv) by inserting “and hospice pro-
15 grams” after “with respect to home health
16 agencies”.

17 (B) EFFECTIVE DATE.—The amendments
18 made by subparagraph (A) shall apply with re-
19 spect to agreements entered into on or after, or
20 in effect as of, the date that is 1 year after the
21 date of the enactment of this Act.

22 (4) CONFORMING AMENDMENTS.—

23 (A) DEFINITION OF A HOSPICE PRO-
24 GRAM.—Section 1861(dd)(4) of the Social Secu-

1 rity Act (42 U.S.C. 1395x(dd)(4)) is amended
2 by striking subparagraph (C).

3 (B) CONTINUATION OF FUNDING.—Section
4 3(a)(2) of the Improving Medicare Post-Acute
5 Care Transformation Act of 2014 is amended
6 by inserting “and section 1822(a)(1) of such
7 Act,” after “as added by paragraph (1),”.

8 (b) INCREASING PAYMENT REDUCTIONS FOR FAIL-
9 URE TO MEET QUALITY DATA REPORTING REQUIRE-
10 MENTS.—Section 1814(i)(5)(A)(i) of the Social Security
11 Act (42 U.S.C. 1395f(i)(5)(A)(i)) is amended by inserting
12 “(or, for fiscal year 2023 and each subsequent fiscal year,
13 4 percentage points)” before the period.

14 (c) REPORT.—Not later than 36 months after the
15 date of the enactment of this Act, the Comptroller General
16 of the United States shall submit to the Committee on
17 Ways and Means of the House of Representatives and the
18 Committee on Finance of the Senate a report containing
19 an analysis of the effects of the amendments made by sub-
20 section (a), including the frequency of application of rem-
21 edies specified in section 1822(c)(5)(B) of the Social Secu-
22 rity Act (as added by such subsection), on access to, and
23 quality of, care furnished by hospice programs under part

- 1 A of title XVIII of the Social Security Act (42 U.S.C.
- 2 1395c et seq.).

Passed the House of Representatives December 8,
2020.

Attest: CHERYL L. JOHNSON,
Clerk.