

Union Calendar No. 570

116TH CONGRESS
2D SESSION

H. R. 5534

[Report No. 116–687, Part I]

To amend title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 23, 2019

Mr. KIND (for himself, Mr. BURGESS, Ms. ESHOO, Mr. SMITH of Missouri, Mr. MCEACHIN, and Ms. HERRERA BEUTLER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 24, 2020

Additional sponsors: Mr. RUSH, Mr. FITZPATRICK, Mr. MARCHANT, Mr. POSEY, Ms. MENG, Mr. COLE, Mrs. AXNE, Mr. CISNEROS, Mr. KILMER, Ms. BLUNT ROCHESTER, Mr. VISCLOSKY, Mr. HIGGINS of New York, Ms. KELLY of Illinois, Mrs. LURIA, Mr. LATTA, Mrs. BUSTOS, Mrs. RODGERS of Washington, Mr. PAYNE, Mr. MEEKS, Mr. CASE, Ms. DEGETTE, Mr. GRIJALVA, Mr. GONZALEZ of Texas, Mr. DEUTCH, Mr. BILIRAKIS, Mr. RYAN, Mr. BUCSHON, Mr. LONG, Ms. NORTON, Mr. LAMB, Mr. RUPPERSBERGER, Ms. PORTER, Ms. BROWNLEY of California, Mr. POCAN, Mrs. BROOKS of Indiana, Mr. GOODEN, Mr. SHIMKUS, Mr. CURTIS, Mr. NEGUSE, Mrs. MURPHY of Florida, Mr. KELLY of Pennsylvania, Mr. OLSON, Mr. SMUCKER, Ms. MCCOLLUM, Mr. COSTA, Mr. COOPER, Mr. ALLRED, Mr. KILDEE, Mrs. BEATTY, Ms. JACKSON LEE, Mr. ROUDA, Mr. KENNEDY, Ms. WILD, Mr. RUTHERFORD, Mrs. DEMINGS, Mr. CONNOLLY, Ms. LOFGREN, Mr. MALINOWSKI, Mr. RODNEY DAVIS of Illinois, Mr. RIGGLEMAN, Mr. MCGOVERN, Ms. CLARKE of New York, Ms. CHENEY, Mr. SOTO, Mr. EVANS, Mr. KING of New York, Mr. LUJÁN, Mr. CRAWFORD, Mr. WELCH, Mr. BLUMENAUER, Mr. LARSON of Connecticut, Mr. ROSE of New York, Mr. HORSFORD, Mr. MCKINLEY, Mr. BISHOP of Georgia, Mr. TRONE, Mr. GALLEG0, Mr. THOMPSON of Cali-

fornia, Mr. WENSTRUP, Mr. BURCHETT, Mr. PRICE of North Carolina, Mr. BOST, Mr. KIM, Mr. BRINDISI, Mr. YARMUTH, Mr. NADLER, Ms. KAPTUR, Mr. LEVIN of Michigan, Ms. KENDRA S. HORN of Oklahoma, Mr. SIMPSON, Mr. AGUILAR, Ms. VELÁZQUEZ, Mr. LAWSON of Florida, Ms. ROYBAL-ALLARD, Ms. MOORE, Ms. CRAIG, Ms. SEWELL of Alabama, Mr. CARSON of Indiana, Mr. RICHMOND, Mr. BAIRD, Ms. JOHNSON of Texas, Ms. UNDERWOOD, Mr. HASTINGS, Mr. GREEN of Texas, Mr. VAN DREW, Mrs. MILLER, Ms. DELBENE, and Ms. FINKENAUER

DECEMBER 24, 2020

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 24, 2020

Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on December 23, 2019]

A BILL

To amend title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients, 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 “Comprehensive Immuno-*
 5 *suppressive Drug Coverage for Kidney Transplant Patients*
 6 *Act of 2020”.*

7 **SEC. 2. EXTENDED MONTHS OF COVERAGE OF IMMUNO-**
 8 **SUPPRESSIVE DRUGS FOR KIDNEY TRANS-**
 9 **PLANT PATIENTS AND OTHER RENAL DIALY-**
 10 **SIS PROVISIONS.**

11 *(a) MEDICARE ENTITLEMENT TO IMMUNO-*
 12 *SUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPI-*
 13 *ENTS.—*

14 *(1) IN GENERAL.—Section 226A(b)(2) of the So-*
 15 *cial Security Act (42 U.S.C. 426–1(b)(2)) is amended*
 16 *by inserting “(except for eligibility for enrollment*
 17 *under part B solely for purposes of coverage of im-*
 18 *munosuppressive drugs described in section*
 19 *1861(s)(2)(J))” before “, with the thirty-sixth month”.*

20 *(2) INDIVIDUALS ELIGIBLE ONLY FOR COVERAGE*
 21 *OF IMMUNOSUPPRESSIVE DRUGS.—*

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

1 (i) by striking “Every” and inserting

2 “(a) *IN GENERAL.—EVERY*”; and

3 (ii) by adding at the end the following

4 new subsection:

5 “(b) *INDIVIDUALS ELIGIBLE FOR IMMUNO-*

6 *SUPPRESSIVE DRUG COVERAGE.—*

7 “(1) *IN GENERAL.—Except as provided under*

8 *paragraph (2), every individual whose entitlement to*

9 *insurance benefits under part A ends (whether before,*

10 *on, or after January 1, 2023) by reason of section*

11 *226A(b)(2) is eligible to enroll or to be deemed to have*

12 *enrolled in the medical insurance program established*

13 *by this part solely for purposes of coverage of im-*

14 *munosuppressive drugs in accordance with section*

15 *1837(m).*

16 “(2) *EXCEPTION IF OTHER COVERAGE IS AVAIL-*

17 *ABLE.—*

18 “(A) *IN GENERAL.—An individual de-*

19 *scribed in paragraph (1) shall not be eligible for*

20 *enrollment in the program for purposes of cov-*

21 *erage described in such paragraph with respect*

22 *to any period in which the individual, as deter-*

23 *mined in accordance with subparagraph (B)—*

24 “(i) *is enrolled in a group health plan*

25 *or group or individual health insurance*

1 coverage, as such terms are defined in sec-
2 tion 2791 of the Public Health Service Act;

3 “(ii) is enrolled for coverage under the
4 TRICARE for Life program under section
5 1086(d) of title 10, United States Code;

6 “(iii) is enrolled under a State plan
7 (or waiver of such plan) under title XIX;

8 “(iv) is enrolled under a State child
9 health plan under title XXI; or

10 “(v)(I) is enrolled in the patient enroll-
11 ment system of the Department of Veterans
12 Affairs established and operated under sec-
13 tion 1705 of title 38, United States Code;

14 “(II) is not required to enroll under
15 section 1705 of such title to receive im-
16 munosuppressive drugs described in this
17 subsection; or

18 “(III) is otherwise eligible under a pro-
19 vision of title 38, United States Code, other
20 than section 1710 of such title to receive im-
21 munosuppressive drugs described in this
22 subsection.

23 “(B) ELIGIBILITY DETERMINATIONS.—

24 “(i) IN GENERAL.—The Secretary, in
25 coordination with the Commissioner of So-

1 *cial Security, shall establish a process for*
 2 *determining whether an individual de-*
 3 *scribed in paragraph (1) who is to be en-*
 4 *rolled or deemed to be enrolled in the med-*
 5 *ical insurance program described in such*
 6 *paragraph meets the requirements for such*
 7 *enrollment under this subsection, including*
 8 *the requirement that the individual not be*
 9 *enrolled in other coverage as described in*
 10 *subparagraph (A).*

11 “(ii) *ATTESTATION REGARDING OTHER*
 12 *COVERAGE.—The process established under*
 13 *clause (i) shall include, at a minimum, a*
 14 *requirement that—*

15 “(I) *the individual provide to the*
 16 *Commissioner an attestation that the*
 17 *individual is not enrolled and does not*
 18 *expect to enroll in such other coverage;*
 19 *and*

20 “(II) *the individual agree to no-*
 21 *tify the Commissioner within 60 days*
 22 *of enrollment in such other coverage.”.*

23 (B) *CONFORMING AMENDMENT.—*

24 (i) *IN GENERAL.—Sections 1837, 1838,*
 25 *and 1839 of the Social Security Act (42*

1 *U.S.C. 1395p, 42 U.S.C. 1395q, 42 U.S.C.*
 2 *1395r) are each amended by striking*
 3 *“1836” and inserting “1836(a)” each place*
 4 *it appears.*

5 (ii) *ADDITIONAL AMENDMENT.—Section*
 6 *1837(j)(1) of such Act (42 U.S.C.*
 7 *1395p(j)(1)) is amended by striking*
 8 *“1836(1)” and inserting “1836(a)(1)”.*

9 (b) *ENROLLMENT FOR INDIVIDUALS ONLY ELIGIBLE*
 10 *FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Section*
 11 *1837 of the Social Security Act (42 U.S.C. 1395p) is*
 12 *amended by adding at the end the following new subsection:*

13 “(m)(1) *Any individual who is eligible for coverage of*
 14 *immunosuppressive drugs under section 1836(b) may enroll*
 15 *or be deemed to have enrolled only in such manner and*
 16 *form as may be prescribed by regulations, and only during*
 17 *an enrollment period described in this subsection.*

18 “(2) *An individual described in paragraph (1) whose*
 19 *entitlement for hospital insurance benefits under part A*
 20 *ends by reason of section 226A(b)(2) prior to January 1,*
 21 *2023, may enroll beginning on October 1, 2022, or the day*
 22 *on which the individual first satisfies section 1836(b),*
 23 *whichever is later.*

24 “(3) *An individual described in paragraph (1) whose*
 25 *entitlement for hospital insurance benefits under part A*

1 ends by reason of section 226A(b)(2) on or after January
 2 1, 2023, shall be deemed to have enrolled in the medical
 3 insurance program established by this part for purposes of
 4 coverage of immunosuppressive drugs.

5 “(4) The Secretary shall establish a process under
 6 which an individual described in paragraph (1) whose other
 7 coverage described in section 1836(b)(2)(A), or coverage
 8 under this part (including the medical insurance program
 9 established under this part for purposes of coverage of im-
 10 munosuppressive drugs) is terminated voluntarily or invol-
 11 untary may enroll or reenroll, if applicable, in the medical
 12 insurance program established under this part for purposes
 13 of coverage of immunosuppressive drugs.”.

14 (c) *COVERAGE PERIOD FOR INDIVIDUALS ONLY ELIGI-*
 15 *BLE FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—*

16 (1) *IN GENERAL.—*Section 1838 of the Social Se-
 17 curity Act (42 U.S.C. 1395q) is amended by adding
 18 at the end the following new subsection:

19 “(g) In the case of an individual described in section
 20 1836(b)(1), the following rules shall apply:

21 “(1) In the case of such an individual who is
 22 deemed to have enrolled in part B for coverage of im-
 23 munosuppressive drugs under section 1837(m)(3),
 24 such individual’s coverage period shall begin on the

1 *first day of the month in which the individual first*
2 *satisfies section 1836(b).*

3 *“(2) In the case of such an individual who en-*
4 *rolls (or reenrolls, if applicable) in part B for cov-*
5 *erage of immunosuppressive drugs under paragraph*
6 *(2) or (4) of section 1837(m), such individual’s cov-*
7 *erage period shall begin on January 1, 2023, or the*
8 *month following the month in which the individual so*
9 *enrolls (or reenrolls), whichever is later.*

10 *“(3) The provisions of subsections (b) and (d)*
11 *shall apply with respect to an individual described in*
12 *paragraph (1) or (2).*

13 *“(4) In addition to the reasons for termination*
14 *under subsection (b), the coverage period of an indi-*
15 *vidual described in paragraph (1) or (2) shall end*
16 *when the individual becomes entitled to benefits under*
17 *this title under section 226(a) or 226A or is no longer*
18 *eligible for such coverage as a result of the application*
19 *of section 1836(b)(2).*

20 *“(5) The Secretary may conduct public edu-*
21 *cation activities to raise awareness of the availability*
22 *of more comprehensive, qualified health plans for in-*
23 *dividuals eligible under section 1836(b) to enroll or to*
24 *be deemed enrolled in the medical insurance program*

1 *established under this part for purposes of coverage of*
 2 *immunosuppressive drugs.”.*

3 (2) *CONFORMING AMENDMENTS.—Section*
 4 *1838(b) of the Social Security Act (42 U.S.C.*
 5 *1395q(b)) is amended, in the matter following para-*
 6 *graph (2), by inserting “or section 1837(m)(3)” after*
 7 *“section 1837(f)” each place it appears.*

8 (d) *PREMIUMS FOR INDIVIDUALS ONLY ELIGIBLE FOR*
 9 *COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Section*
 10 *1839 of the Social Security Act (42 U.S.C. 1395r) is*
 11 *amended—*

12 (1) *in subsection (b), by adding at the end the*
 13 *following new sentence: “No increase in the premium*
 14 *shall be effected for individuals who are enrolled pur-*
 15 *suant to section 1836(b) for coverage only of immuno-*
 16 *suppressive drugs.”; and*

17 (2) *by adding at the end the following new sub-*
 18 *section:*

19 *“(j) DETERMINATION OF PREMIUM FOR INDIVIDUALS*
 20 *ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE*
 21 *DRUGS.—The Secretary shall, during September of each*
 22 *year (beginning with 2022), determine and promulgate a*
 23 *monthly premium rate for the succeeding calendar year for*
 24 *individuals enrolled only for the purpose of coverage of im-*
 25 *munosuppressive drugs under section 1836(b). Such pre-*

mium shall be equal to 35 percent of the monthly actuarial rate for enrollees age 65 and over (as would be determined in accordance with subsection (a)(1) if the reference to ‘one-half’ in such subsection were a reference to ‘100 percent’) for that succeeding calendar year. The monthly premium of each individual enrolled for coverage of immunosuppressive drugs under section 1836(b) for each month shall be the amount promulgated in this subsection. Such amount shall be adjusted in accordance with subsections (c), (f), and (i), but shall not be adjusted under subsection (b).”.

(e) *ENSURING COVERAGE UNDER THE MEDICARE SAVINGS PROGRAM.*—Section 1905(p)(1)(A) of the Social Security Act (42 U.S.C. 1396d(p)(1)(A)) is amended by inserting “or who is enrolled under part B for the purpose of coverage of immunosuppressive drugs under section 1836(b)” after “under section 1818A”).

(f) *PART D.*—Section 1860D–1(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–101(a)(3)(A)) is amended by inserting “(but not including an individual enrolled solely for coverage of immunosuppressive drugs under section 1836(b))” before the period at the end.

SEC. 3. GAO STUDY AND REPORT.

(a) *STUDY.*—The Comptroller General of the United States (in this section referred to as the “Comptroller General”) shall conduct a study on the implementation of cov-

1 *erage of immunosuppressive drugs for kidney transplant*
2 *patients under the Medicare program pursuant to the provi-*
3 *sions of, and amendments made by, this Act.*

4 **(b) REPORT.**—*Not later than January 1, 2025, the*
5 *Comptroller General shall submit to Congress a report on*
6 *the study conducted under subsection (a), together with rec-*
7 *ommendations as the Comptroller General determines ap-*
8 *propriate.*

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