

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO
COMMITTEE PRINT OF H.R. 5534
OFFERED BY MR. BURGESS OF TEXAS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Comprehensive Im-
3 munosuppressive Drug Coverage for Kidney Transplant
4 Patients Act of 2020”.

**5 SEC. 2. 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-

1 tion 1861(s)(2)(J))” before “, with the thirty-sixth
2 month”.

3 (2) INDIVIDUALS ELIGIBLE ONLY FOR COV-
4 ERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

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

8 (i) by striking “Every” and inserting
9 “(a) IN GENERAL.—EVERY”; and

10 (ii) by adding at the end the following
11 new subsection:

12 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-
13 SUPPRESSIVE DRUG COVERAGE.—

14 “(1) IN GENERAL.—Except as provided under
15 paragraph (2), every individual whose entitlement to
16 insurance benefits under part A ends (whether be-
17 fore, on, or after January 1, 2023) by reason of sec-
18 tion 226A(b)(2) is eligible to enroll or to be deemed
19 to have enrolled in the medical insurance program
20 established by this part solely for purposes of cov-
21 erage of immunosuppressive drugs in accordance
22 with section 1837(m).

23 “(2) EXCEPTION IF OTHER COVERAGE IS
24 AVAILABLE.—

1 “(A) IN GENERAL.—An individual de-
2 scribed in paragraph (1) shall not be eligible for
3 enrollment in the program for purposes of cov-
4 erage described in such paragraph with respect
5 to any period in which the individual, as deter-
6 mined in accordance with subparagraph (B)—

7 “(i) is enrolled in a group health plan
8 or group or individual health insurance
9 coverage, as such terms are defined in sec-
10 tion 2791 of the Public Health Service
11 Act;

12 “(ii) is enrolled for coverage under the
13 TRICARE for Life program under section
14 1086(d) of title 10, United States Code;

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

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

19 “(v)(I) is enrolled in the patient en-
20 rollment system of the Department of Vet-
21 erans Affairs established and operated
22 under section 1705 of title 38, United
23 States Code;

24 “(II) is not required to enroll under
25 section 1705 of such title to receive im-

1 munosuppressive drugs described in this
2 subsection; or

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

8 “(B) ELIGIBILITY DETERMINATIONS.—

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

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

1 “(I) the individual provide to the
2 Commissioner an attestation that the
3 individual is not enrolled and does not
4 expect to enroll in such other cov-
5 erage; and

6 “(II) the individual agree to no-
7 tify the Commissioner within 60 days
8 of enrollment in such other cov-
9 erage.”.

10 (B) CONFORMING AMENDMENT.—

11 (i) IN GENERAL.—Sections 1837,
12 1838, and 1839 of the Social Security Act
13 (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42
14 U.S.C. 1395r) are each amended by strik-
15 ing “1836” and inserting “1836(a)” each
16 place it appears.

17 (ii) ADDITIONAL AMENDMENT.—Sec-
18 tion 1837(j)(1) of such Act (42 U.S.C.
19 1395p(j)(1)) is amended by striking
20 “1836(1)” and inserting “1836(a)(1)”.

21 (b) ENROLLMENT FOR INDIVIDUALS ONLY ELIGIBLE
22 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
23 tion 1837 of the Social Security Act (42 U.S.C. 1395p)
24 is amended by adding at the end the following new sub-
25 section:

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

6 “(2) An individual described in paragraph (1) whose
7 entitlement for hospital insurance benefits under part A
8 ends by reason of section 226A(b)(2) prior to January 1,
9 2023, may enroll beginning on October 1, 2022, or the
10 day on which the individual first satisfies section 1836(b),
11 whichever is later.

12 “(3) An individual described in paragraph (1) whose
13 entitlement for hospital insurance benefits under part A
14 ends by reason of section 226A(b)(2) on or after January
15 1, 2023, shall be deemed to have enrolled in the medical
16 insurance program established by this part for purposes
17 of coverage of immunosuppressive drugs.

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

1 part for purposes of coverage of immunosuppressive
2 drugs.”.

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

6 (1) IN GENERAL.—Section 1838 of the Social
7 Security Act (42 U.S.C. 1395q) is amended by add-
8 ing at the end the following new subsection:

9 “(g) In the case of an individual described in section
10 1836(b)(1), the following rules shall apply:

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

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

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

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

11 “(5) The Secretary may conduct public edu-
12 cation activities to raise awareness of the availability
13 of more comprehensive, qualified health plans for in-
14 dividuals eligible under section 1836(b) to enroll or
15 to be deemed enrolled in the medical insurance pro-
16 gram established under this part for purposes of
17 coverage of immunosuppressive 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(m)(3)”
22 after “section 1837(f)” each place it appears.

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

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

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

8 (2) by adding at the end the following new sub-
9 section:

10 “(j) DETERMINATION OF PREMIUM FOR INDIVID-
11 UALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNO-
12 SUPPRESSIVE DRUGS.—The Secretary shall, during Sep-
13 tember of each year (beginning with 2022), determine and
14 promulgate a monthly premium rate for the succeeding
15 calendar year for individuals enrolled only for the purpose
16 of coverage of immunosuppressive drugs under section
17 1836(b). Such premium shall be equal to 35 percent of
18 the monthly actuarial rate for enrollees age 65 and over
19 (as would be determined in accordance with subsection
20 (a)(1) if the reference to ‘one-half’ in such subsection were
21 a reference to ‘100 percent’) for that succeeding calendar
22 year. The monthly premium of each individual enrolled for
23 coverage of immunosuppressive drugs under section
24 1836(b) for each month shall be the amount promulgated
25 in this subsection. Such amount shall be adjusted in ac-

1 cordance with subsections (c), (f), and (i), but shall not
2 be adjusted under subsection (b).”.

3 (e) ENSURING COVERAGE UNDER THE MEDICARE
4 SAVINGS PROGRAM.—Section 1905(p)(1)(A) of the Social
5 Security Act (42 U.S.C. 1396d(p)(1)(A)) is amended by
6 inserting “or who is enrolled under part B for the purpose
7 of coverage of immunosuppressive drugs under section
8 1836(b)” after “under section 1818A”.

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

14 **SEC. 3. GAO STUDY AND REPORT.**

15 (a) STUDY.—The Comptroller General of the United
16 States (in this section referred to as the “Comptroller
17 General”) shall conduct a study on the implementation of
18 coverage of immunosuppressive drugs for kidney trans-
19 plant patients under the Medicare program pursuant to
20 the provisions of, and amendments made by, this Act.

21 (b) REPORT.—Not later than January 1, 2025, the
22 Comptroller General shall submit to Congress a report on
23 the study conducted under subsection (a), together with

- 1 recommendations as the Comptroller General determines
- 2 appropriate.

