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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. 5534

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 introduced the following bill; which was referred to the Committee
on _____

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 Im-
5 munosuppressive Drug Coverage for Kidney Transplant
6 Patients Act of 2019”.

1 **SEC. 2. EXTENDED MONTHS OF COVERAGE OF IMMUNO-**
2 **SUPPRESSIVE DRUGS FOR KIDNEY TRANS-**
3 **PLANT PATIENTS AND OTHER RENAL DIALY-**
4 **SIS PROVISIONS.**

5 (a) MEDICARE ENTITLEMENT TO IMMUNO-
6 SUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPI-
7 ENTS.—

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

15 (2) INDIVIDUALS ELIGIBLE ONLY FOR COV-
16 ERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

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

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

22 (ii) by adding at the end the following
23 new subsection:

24 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-
25 SUPPRESSIVE DRUG COVERAGE.—

1 “(1) IN GENERAL.—Except as provided under
2 paragraph (2), every individual whose insurance ben-
3 efits under part A have ended (whether before, on,
4 or after January 1, 2022) by reason of section
5 226A(b)(2) is eligible to enroll in the insurance pro-
6 gram established by this part solely for purposes of
7 coverage of immunosuppressive drugs in accordance
8 with section 1837(m).

9 “(2) EXCEPTION IF OTHER HEALTH INSUR-
10 ANCE COVERAGE IS AVAILABLE.—

11 “(A) IN GENERAL.—An individual de-
12 scribed in paragraph (1) shall not be eligible for
13 enrollment in the insurance program described
14 in such paragraph with respect to any period in
15 which the individual—

16 “(i) is enrolled in a group health plan,
17 as defined in section 2791(a)(1) of the
18 Public Health Service Act, or individual
19 health insurance coverage, as defined in
20 section 2791(b)(5) of such Act, as deter-
21 mined in accordance with subparagraph
22 (B);

23 “(ii) is eligible for benefits under—

24 “(I) a State plan under title
25 XIX;

1 “(II) a State child health plan
2 under title XXI; or

3 “(III) the TRICARE program
4 under chapter 55 of title 10, United
5 States Code;

6 “(iii) is enrolled in a health benefits
7 plan under chapter 89 of title 5, United
8 States Code;

9 “(iv) is eligible for health care bene-
10 fits under the laws administered by the
11 Secretary of Veterans Affairs; or

12 “(v) is eligible to receive services from
13 the Indian Health Service.

14 “(B) ELIGIBILITY DETERMINATIONS.—

15 “(i) IN GENERAL.—The Secretary, in
16 consultation with the Administrator of So-
17 cial Security, shall establish procedures for
18 determining whether an individual de-
19 scribed in paragraph (1) who is to be en-
20 rolled in the insurance program described
21 in such paragraph meets the requirements
22 for such enrollment under this subsection,
23 including the requirement that the indi-
24 vidual not have other health insurance cov-
25 erage as described in subparagraph (A).

1 “(ii) ATTESTATION REGARDING
2 OTHER COVERAGE.—The procedures estab-
3 lished under clause (i) shall include a re-
4 quirement that—

5 “(I) the individual provide to the
6 Secretary an attestation that the indi-
7 vidual does not have such other health
8 insurance coverage; and

9 “(II) update such attestation—
10 “(aa) on an annual basis; or
11 “(bb) if the health insurance
12 coverage situation of the indi-
13 vidual has changed.

14 “(C) IDENTIFICATION AND REDUCTION OF
15 IMPROPER PAYMENTS.—The Secretary, in con-
16 sultation with the Administrator of Social Secu-
17 rity, shall—

18 “(i) establish procedures to ensure
19 that any information provided with respect
20 to other health insurance coverage de-
21 scribed in subparagraph (A) of this para-
22 graph for an individual described in para-
23 graph (1) is provided to the appropriate
24 medicare administrative contractor for pur-
25 poses of identifying any improper pay-

1 ments made with respect to immuno-
2 suppressive drug coverage under this part;
3 and

4 “(ii) provide education to prevent or
5 reduce such improper payments, including
6 education through the improper payment
7 outreach and education program under
8 section 1847A(h).”.

9 (B) CONFORMING AMENDMENT.—Sections
10 1837, 1838, and 1839 of the Social Security
11 Act (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42
12 U.S.C. 1395r) are each amended by striking
13 “1836” and inserting “1836(a)” each place it
14 appears.

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

20 “(m)(1) Any individual who is eligible under section
21 1836(b) to enroll in the medical insurance program estab-
22 lished under this part for purposes of coverage of immuno-
23 suppressive drugs may enroll only in such manner and
24 form as may be prescribed by regulations, and only during
25 an enrollment period described in this subsection.

1 “(2) An individual described in paragraph (1) whose
2 entitlement for hospital insurance benefits under part A
3 ends by reason of section 226A(b)(2) prior to January 1,
4 2022, may enroll beginning on the first day of the third
5 month before the month in which the individual first satis-
6 fies section 1836(b), or a date specified by the Secretary
7 prior to the first date on which coverage is effective under
8 section 1838(g)(2), whichever is later. In implementing
9 the preceding sentence, the Secretary shall consider proce-
10 dures to expedite the enrollment of such an individual if
11 practicable for purposes of providing continued coverage
12 of immunosuppressive drugs for such individual pursuant
13 to section 1838(g)(2).

14 “(3) An individual described in paragraph (1) whose
15 entitlement for hospital insurance benefits under part A
16 ends by reason of section 226A(b)(2) on or after January
17 1, 2022, shall be deemed to have enrolled in the medical
18 insurance program established by this part for purposes
19 of coverage of immunosuppressive drugs.

20 “(4) The Secretary shall establish a process under
21 which an individual described in paragraph (1) whose
22 other health insurance coverage described in section
23 1836(b)(2)(A), or coverage under this part (including the
24 medical insurance program established under this part for
25 purposes of coverage of immunosuppressive drugs) is ter-

1 minated voluntarily or involuntary may enroll or reenroll,
2 if applicable, in the medical insurance program established
3 under this part for purposes of coverage of immuno-
4 suppressive drugs.”.

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

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

11 “(g) In the case of an individual described in section
12 1836(b)(1), the following rules shall apply:

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

19 “(2) In the case of such an individual who en-
20 rolls (or reenrolls) in part B for coverage of im-
21 munosuppressive drugs under paragraph (2) or (4)
22 of section 1837(m), such individual’s coverage period
23 shall begin on January 1, 2022 (or such earlier date
24 as the Secretary may specify if practicable for pur-
25 poses of providing continued coverage of immuno-

1 suppressive drugs for such an individual), or the
2 month following the month in which the individual
3 so enrolls (or reenrolls), whichever is later.

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

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

14 “(5) The Secretary may conduct public edu-
15 cation activities to raise awareness of the availability
16 of more comprehensive, qualified health plans for
17 beneficiaries eligible under this subsection.”.

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 2021), determine and
14 promulgate a monthly premium rate for the succeeding
15 calendar year for individuals who enroll only for the pur-
16 pose of coverage of immunosuppressive drugs under sec-
17 tion 1836(b). Such premium shall be equal to 35 percent
18 of the monthly actuarial rate for enrollees age 65 and over,
19 determined according to paragraph (1), for that suc-
20 ceeding calendar year. The monthly premium of each indi-
21 vidual enrolled for coverage of immunosuppressive drugs
22 under section 1836(b) for each month shall be the amount
23 promulgated in this subsection. Such amount shall be ad-
24 justed in accordance with subsections (c), (f), and (i), but
25 shall not be adjusted under subsection (b).”.

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

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

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

8 “(4) a Government contribution equal to the es-
9 timated aggregate reduction in premiums payable
10 under part B that results from establishing the pre-
11 mium at 35 percent of the actuarial rate under sec-
12 tion 1839(j) instead of 50 percent of the actuarial
13 rate for individuals who enroll only for the purpose
14 of coverage of immunosuppressive drugs under sec-
15 tion 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.—Section 1905(p)(1)(A) of the Social
25 Security Act (42 U.S.C. 1396d(p)(1)(A)) is amended by

1 inserting “or an individual who is enrolled under part B
2 for the purpose of coverage of immunosuppressive drugs
3 under section 1836(b)” after “section 1818”.

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