Suspend the Rules and Pass the Bill, H.R. 2477, With an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 2477

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2019

Mr. RUIZ (for himself, Mrs. WALORSKI, Mr. SCHNEIDER, and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

A BILL

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 Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

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

SEC. 2. BENEFICIARY ENROLLMENT NOTIFICATION AND ELIGIBILITY SIMPLIFICATION.

(a) ELIGIBILITY AND ENROLLMENT NOTICES.—

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

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

“(4) MEDICARE ELIGIBILITY INFORMATION.—

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

“(B) CONTENTS OF NOTICE.—The notice required under subparagraph (A) shall include a clear, simple explanation of—

“(i) eligibility for benefits under the Medicare program under title XVIII, and in par-
ticular benefits under parts B and C of such title;

“(ii) the reasons a late enrollment penalty for failure to timely enroll could be assessed and how such late enrollment penalty is calculated, in particular for benefits under such part B;

“(iii) the availability of relief from such late enrollment penalty and retroactive enrollment under section 1837(h) (including as such section is applied under sections 1818(c) and 1818A(c)(3)), with examples of circumstances under which such relief may be granted and examples of circumstances under which such relief would not be granted;

“(iv) coordination of benefits (including primary and secondary coverage scenarios) pursuant to section 1862(b), in particular for benefits under such part B;

“(v) enrollment, eligibility, and coordination of benefits under title XVIII with respect to populations, for whom there are special considerations, such as residents of Puerto Rico 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.
“(iii) NOTICE IMPROVEMENT.—Beginning
4 years after the date of the enactment of this paragraph, and not less than once every 2 years thereafter, the Secretary, in coordination with the Commissioner of Social Security, shall—

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

“(II) request written information, including recommendations, on such notice through a request for information process as described in clause (ii); and

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

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

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

“(ii) Veterans.

“(iii) Individuals with disabilities.

“(iv) Individuals with end stage renal disease.

“(v) Low-income individuals and families.

“(vi) Employers (including human resources professionals).
“(vii) States (including representatives of State-run Health Insurance Exchanges, Medicaid offices, and Departments of Insurance).

“(viii) State Health Insurance Assistance Programs.

“(ix) Health insurers.

“(x) Health insurance agents and brokers.

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

“(E) Posting of notice on websites.—The Commissioner of Social Security and the Secretary shall post the notice required under subparagraph (A) on the public Internet website of the Social Security Administration and on Medicare.gov (or a successor website), respectively.

“(F) Reimbursement of costs.—

“(i) In general.—Effective for fiscal years beginning in the year in which the date of enactment of this paragraph occurs, the Commissioner of Social Security and the Secretary shall enter into an agreement under which the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund
under section 1841 (in such proportion as the
Secretary determines appropriate), of such
sums as necessary to cover the administrative
costs of the Commissioner’s activities under this
paragraph. Such agreement shall—

“(I) provide funds to the Commis-
ioner for the administrative costs of the
Social Security Administration’s work re-
lated to the implementation of this para-
graph, including any initial costs incurred
prior to the finalization of such agreement;

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

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

“(ii) LIMITATION.—In no case shall funds
from the Social Security Administration’s Limi-
tation on Administrative Expenses be used to
carry out activities related to the implementa-
tion of this paragraph, except as the Commission
determines is necessary—

“(I) for the development of the agree-
ment under clause (i); and

“(II) on a temporary basis and sub-
ject to reimbursement under clause (i)(I),
for the initial implementation of this para-
graph.

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

(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 de-
dcribed in subsection (a)(4), such statements
shall be mailed not earlier than 6 months and
not later than 3 months before the individual attains such age.’’

(2) Social security beneficiaries.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1144 the following new section:

‘’MEDICARE ENROLLMENT NOTIFICATION AND ELIGIBILITY NOTICES FOR SOCIAL SECURITY BENEFICIARIES PRIOR TO MEDICARE ELIGIBILITY

‘’Notices

‘’Sec. 1144A. (a)

‘’(1) In general.—The Commissioner of Social Security shall distribute the notice to be provided pursuant to section 1143(a)(4), as may be modified under paragraph (2), to individuals entitled to monthly insurance benefits under title II in accordance with subsection (b).

‘’(2) Authority to modify notice.—The Secretary, in coordination with the Commissioner of Social Security, may modify the notice to be distributed under paragraph (1) as necessary to take into account the individuals described in such paragraph.

‘’(3) Posting of notice on websites.—The Commissioner of Social Security and the Secretary shall post the notice required to be distributed under paragraph (1) on the public Internet website of the
Social Security Administration and on Medicare.gov (or a successor website), respectively.

“Timing

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

“(1) in the third month before the date on which such individual’s initial enrollment period begins as provided under section 1837; and

“(2) in the case of an individual with respect to whom section 226(b) applies (except for an individual who will attain age 65 during the 24 month period described in such section), in the month before such date on which such individual’s initial enrollment period so begins.

“Reimbursement of Costs

“(c)

“(1) IN GENERAL.—Effective for fiscal years beginning in the year in which the date of enactment of this section occurs, the Commissioner of Social Security and the Secretary shall enter into an agreement under which the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supple-
mentary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), of such sums as necessary to cover the administrative costs of the Commissioner’s activities under this section. Such agreement shall—

“(A) provide funds to the Commissioner for the administrative costs of the Social Security Administration’s work related to the implementation of this section, including any initial costs incurred prior to the finalization of such agreement;

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

“(C) require an annual accounting (with a detailed description of the costs and methodology used to assess such costs) and reconciliation of the actual costs incurred and funds provided under this paragraph.

“(2) LIMITATION.—In no case shall funds from the Social Security Administration’s Limitation on Administrative Expenses be used to carry out activities related to the implementation of this section, except as the Commissioner determines is necessary—
“(A) for the development of the agreement under paragraph (1); and

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

(b) BENEFICIARY ENROLLMENT SIMPLIFICATION.—

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

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

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

“(B) in the case of an individual who first satisfies such paragraph in a month beginning before January 2023 and who enrolls pursuant to such subsection (d)—

“(i) in such month in which he first satisfies such paragraph, the first day of the month following the month in which he so enrolls,

“(ii) in the month following such month in which he first satisfies such paragraph, the first
day of the second month following the month in which he so enrolls, or

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

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

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

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

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

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

“(3) in the case of an individual who is deemed to have enrolled—
“(A) on or before the last day of the third month of his initial enrollment period, the first day of the month in which he first meets the applicable requirements of section 1836(a) or July 1, 1973, whichever is later, or

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

“(i) before January 1, 2023, as prescribed under subparagraphs (B)(i), (B)(ii), (B)(iii), and (D)(i) of paragraph (2), or

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

(2) SPECIAL ENROLLMENT PERIODS FOR EXCEPTIONAL CIRCUMSTANCES.—

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

“(m) Beginning January 1, 2023, the Secretary may establish special enrollment periods in the case of individuals who satisfy paragraph (1) or (2) of section 1836(a)
and meet such exceptional conditions as the Secretary may provide.”.

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

“(g) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(m), the coverage period shall begin on a date the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.”.

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

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

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

(3) TECHNICAL CORRECTION.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended by adding at the end the following new
sentence: “For purposes of determining any increase under this subsection for individuals whose enrollment occurs on or after January 1, 2023, the second sentence of this subsection shall be applied by substituting ‘close of the month’ for ‘close of the enrollment period’ each place it appears.’”.

(4) REPORT.—Not later than January 1, 2023, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means and Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and Special Committee on Aging of the Senate a report on how to align existing Medicare enrollment periods under title XVIII of the Social Security Act, including the general enrollment period under part B of such title and the annual, coordinated election period under the Medicare Advantage program under part C of such title and under the prescription drug program under part D of such title. Such report shall include recommendations consistent with the goals of maximizing coverage continuity and choice and easing beneficiary transition.

(5) 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 activities carried out under this section. Such study shall include the following:

(i) An analysis of the Social Security Administration’s use of the funds provided to carry out the activities described under this section and the amendments made by this section. The Comptroller General shall examine the amount of funds transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, respectively, for those activities; how the funds were spent; what procedures the agency had in place over the use of those funds; and how the agency complied with those procedures.

(ii) An evaluation of the notices described in sections 1143(a)(4)(A) and 1144A(a) of the Social Security Act, including, to the extent data is available, how the mailing of such notices affected enrollee behavior and the imposition of late enrollment penalties under Medicare Part B.
(iii) Any other area determined appropriate by the Comptroller General.

(B) REPORT.—Not later than 5 years after the date of enactment of this section, the Comptroller General shall submit to the Committee on Ways and Means and Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under paragraph (1), including recommendations for any legislative and administrative actions as the Comptroller General determines appropriate.

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

“(e) FUNDING FOR IMPLEMENTATION OF BENEFICIARY ENROLLMENT NOTIFICATION AND ELIGIBILITY SIMPLIFICATION.—For purposes of carrying out the provisions of and the amendments made by section 2 of the BENES Act of 2020, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), to
the Centers for Medicare & Medicaid Services Program Management Account, of $2,000,000 for each fiscal year beginning with fiscal year 2021, to remain available until expended.”.

SEC. 3. EXTENDED MONTHS OF COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT PATIENTS AND OTHER RENAL DIALYSIS PROVISIONS.

(a) MEDICARE ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.—

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

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

(A) IN GENERAL.—Section 1836 of the Social Security Act (42 U.S.C. 1395o) is amended—

(i) by striking “Every” and inserting “(a) IN GENERAL.—Every”; and
(ii) by adding at the end the following new subsection:

“(b) INDIVIDUALS ELIGIBLE FOR IMMUNOSUPPRESSIVE DRUG COVERAGE.—

“(1) IN GENERAL.—Except as provided under paragraph (2), every individual whose entitlement to insurance benefits under part A ends (whether before, on, or after January 1, 2023) by reason of section 226A(b)(2) is eligible to enroll or to be deemed to have enrolled in the medical insurance program established by this part solely for purposes of coverage of immunosuppressive drugs in accordance with section 1837(n).

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

“(A) IN GENERAL.—An individual described in paragraph (1) shall not be eligible for enrollment in the program for purposes of coverage described in such paragraph with respect to any period in which the individual, as determined in accordance with subparagraph (B)—

“(i) is enrolled in a group health plan or group or individual health insurance 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
“(III) is otherwise eligible under a provision of title 38, United States Code, other than section 1710 of such title to receive immunosuppressive drugs described in this subsection.

“(B) Eligibility determinations.—

“(i) In general.—The Secretary, in coordination with the Commissioner of Social Security, shall establish a process for determining whether an individual described in paragraph (1) who is to be enrolled or deemed to be enrolled in the medical insurance program described in such paragraph meets the requirements for such enrollment under this subsection, including the requirement that the individual not be enrolled in other coverage as described in subparagraph (A).

“(ii) Attestation regarding other coverage.—The process established under clause (i) shall include, at a minimum, a requirement that—

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

“(II) the individual notify the Commissioner within 60 days of enrollment in such other coverage.”.

(B) CONFORMING AMENDMENT.—

(i) IN GENERAL.—Sections 1837, 1838, and 1839 of the Social Security Act (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42 U.S.C. 1395r) are each amended by striking “1836” and inserting “1836(a)” each place it appears.

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

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

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

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

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

“(4) The Secretary shall establish a process under which an individual described in paragraph (1) whose other coverage described in section 1836(b)(2)(A), or coverage under this part (including the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs), is terminated voluntarily or involuntarily may enroll or reenroll, if applicable, in the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs.”.
(c) Coverage Period for Individuals Only Eligible for Coverage of Immunosuppressive Drugs.—

(1) In general.—Section 1838 of the Social Security Act (42 U.S.C. 1395q), as amended by section 2(b)(2)(B), is further amended by adding at the end the following new subsection:

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

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

“(2) In the case of such an individual who enrolls (or reenrolls, if applicable) in part B for coverage of immunosuppressive drugs under paragraph (2) or (4) of section 1837(n), such individual’s coverage period shall begin on January 1, 2023, or the month following the month in which the individual so enrolls (or reenrolls), whichever is later.

“(3) The provisions of subsections (b) and (d) shall apply with respect to an individual described in paragraph (1) or (2).
“(4) In addition to the reasons for termination under subsection (b), the coverage period of an individual described in paragraph (1) or (2) shall end when the individual becomes entitled to benefits under this title under subsection (a) or (b) of section 226, or under section 226A, or is no longer eligible for such coverage as a result of the application of section 1836(b)(2).

“(5) The Secretary may conduct public education activities to raise awareness of the availability of more comprehensive, individual health insurance coverage (as defined in section 2791 of the Public Health Service Act) for individuals eligible under section 1836(b) to enroll or to be deemed enrolled in the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs.”.

(2) Conforming Amendments.—Section 1838(b) of the Social Security Act (42 U.S.C. 1395q(b)) is amended, in the matter following paragraph (2), by inserting “or section 1837(n)(3)” after “section 1837(f)” each place it appears.

(d) Premiums for Individuals Only Eligible for Coverage of Immunosuppressive Drugs.—
(1) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

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

and

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

“(j) DETERMINATION OF PREMIUM FOR INDIVIDUALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—The Secretary shall, during September of each year (beginning with 2022), determine and promulgate a monthly premium rate for the succeeding calendar year for individuals enrolled only for the purpose of coverage of immunosuppressive drugs under section 1836(b). Such premium shall be equal to 15 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. In the case of such individual not otherwise enrolled under this part, such premium shall be in lieu of any other monthly premium applicable under this section. Such amount shall be adjusted in accordance with subsections (c), (f), and (i), but shall not be adjusted under subsection (b).”.

(2) Special rule for application of hold harmless provisions to transitioning individuals.—Section 1839(f) of the Social Security Act (42 U.S.C. 1395r(f)) is amended by adding at the end the following new sentence: “Any increase in the premium for an individual who was enrolled under section 1836(b) attributable to such individual otherwise enrolling under this part shall not be taken into account in applying this subsection.”.

(3) Special rule for application of premium subsidy reduction provisions.—Section 1839(i)(3)(A)(ii)(II) of the Social Security Act (42 U.S.C. 1395r(i)(3)(A)(ii)(II)) is amended by inserting “except in the case of an individual enrolled under section 1836(b) and not otherwise enrolled under this part,” before “4 times”.

(e) Government contribution.—Section 1844(a) of the Social Security Act (42 U.S.C. 1395w(a)) is amended—
(1) in paragraph (3), by striking the period at the end and inserting "; plus";

(2) by inserting after paragraph (3) the following new paragraph:

"(4) a Government contribution equal to the estimated aggregate reduction in premiums payable under part B that results from establishing the premium at 15 percent of the actuarial rate (as would be determined in accordance with section 1839(a)(1) if the reference to ‘one-half’ in such section were a reference to ‘100 percent’) under section 1839(j) instead of 25 percent of such rate (as so determined) for individuals enrolled only for the purpose of coverage of immunosuppressive drugs under section 1836(b)."; and

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

"The Government contribution under paragraph (4) shall be treated as premiums payable and deposited for purposes of subparagraphs (A) and (B) of paragraph (1).".

(f) Ensuring Coverage Under the Medicare Savings Program.—
(1) IN GENERAL.—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”.

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

(g) 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.

(h) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States (in this subsection referred to as the “Comptroller General”) shall conduct a study on the implementation of coverage of immunosuppressive drugs for kidney transplant patients under the Medicare program pursuant to the provisions of, and amendments made by, this section.
(2) REPORT.—Not later than January 1, 2025, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations as the Comptroller General determines appropriate.

SEC. 4. TRANSPARENCY OF MEDICARE SECONDARY PAYER REPORTING INFORMATION.

(a) IN GENERAL.—Section 1862(b)(8)(G) of the Social Security Act (42 U.S.C. 395y(b)(8)(G)) is amended—

(1) by striking “INFORMATION.—The Secretary” and inserting “INFORMATION.—

“(i) IN GENERAL.—The Secretary’’;

and

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

“(ii) SPECIFIED INFORMATION.—In responding to any query from an applicable plan related to a determination described in subparagraph (A)(i), the Secretary, notwithstanding any other provision of law, shall provide to such applicable plan—

“(I) whether a claimant subject to the query is, or during the preceding 3-year period has been, entitled
to benefits under the program under this title on any basis; and

“(II) to the extent applicable, the plan name and address of any Medicare Advantage plan under part C and any prescription drug plan under part D in which the claimant is enrolled or has been enrolled during such period.”.

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

SEC. 5. ESTABLISHING HOSPICE PROGRAM SURVEY AND ENFORCEMENT PROCEDURES UNDER THE MEDICARE PROGRAM.

(a) Survey and Enforcement Procedures.—

(1) IN GENERAL.—Part A of title XVIII of the Social Security Act (42 U.S.C. 1395e et seq.) is amended by adding at the end the following new section:

“SEC. 1822. HOSPICE PROGRAM SURVEY AND ENFORCEMENT PROCEDURES.

“(a) SURVEYS.—
“(1) FREQUENCY.—Any entity that is certified as a hospice program shall be subject to a standard survey by an appropriate State or local survey agency, or an approved accreditation agency, as determined by the Secretary, not less frequently than once every 36 months (and not less frequently than once every 24 months beginning October 1, 2021).

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

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

“(i) IN GENERAL.—Each State, and each national accreditation body with respect to which the Secretary has made a finding under section 1865(a) respecting the accreditation of a hospice program by such body, shall submit, in a form and manner, and at a time, specified by the Secretary for purposes of this subparagraph, information respecting any survey or certification made with respect to a hospice program by such State or body, as applicable. Such information shall include any inspection report made by such State or body with respect to such survey or cer-
tification, any enforcement actions taken as a result of such survey or certification, and any other information determined appropriate by the Secretary.

“(ii) REQUIRED INCLUSION OF SPECIFIED FORM.—With respect to a survey under this subsection carried out by a national accreditation body described in clause (i) on or after October 1, 2021, information described in such clause shall include Form 2567 (or a successor form), along with such additional information determined appropriate by such body.

“(B) PUBLIC DISCLOSURE OF INFORMATION.—Beginning not later than October 1, 2022, the Secretary shall publish the information submitted under subparagraph (A) on the public website of the Centers for Medicare & Medicaid Services in a manner that is prominent, easily accessible, readily understandable, and searchable. The Secretary shall provide for the timely update of such information so published.

“(3) CONSISTENCY OF SURVEYS.—Each State and the Secretary shall implement programs to
measure and reduce inconsistency in the application of survey results among surveyors.

“(4) Survey teams.—

“(A) In general.—In the case of a survey conducted under this subsection on or after October 1, 2021, by more than 1 individual, such survey shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

“(B) Prohibition of conflicts of interest.—Beginning October 1, 2021, a State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the program surveyed respecting compliance with the requirements of section 1861(dd) or who has a personal or familial financial interest in the program being surveyed.

“(C) Training.—The Secretary shall provide, not later than October 1, 2021, for the comprehensive training of State and Federal surveyors, and any surveyor employed by a national accreditation body described in paragraph (2)(A)(i), in the conduct of surveys under this
subsection, including training with respect to the review of written plans for providing hospice care (as described in section 1814(a)(7)(B)). No individual shall serve as a member of a survey team with respect to a survey conducted on or after such date unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

“(5) FUNDING.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 to the Centers for Medicare & Medicaid Services Program Management Account, of $10,000,000 for each fiscal year (beginning with fiscal year 2022) for purposes of carrying out this subsection and subsection (b). Sums so transferred shall remain available until expended. Any transfer pursuant to this paragraph shall be in addition to any transfer pursuant to section 3(a)(2) of the Improving Medicare Post-Acute Care Transformation Act of 2014.

“(b) SPECIAL FOCUS PROGRAM.—

“(1) IN GENERAL.—The Secretary shall conduct a special focus program for enforcement of requirements for hospice programs that the Secretary
has identified as having substantially failed to meet applicable requirements of this Act.

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

“(c) ENFORCEMENT.—

“(1) SITUATIONS INVOLVING IMMEDIATE JEOPARDY.—If the Secretary determines on the basis of a standard survey or otherwise that a hospice program that is certified for participation under this title is no longer in compliance with the requirements specified in section 1861(dd) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the program furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy described in paragraph (5)(B)(iii) or terminate the certification of the program, and may provide, in addition, for 1 or more of the other remedies described in paragraph (5)(B).

“(2) SITUATIONS NOT INVOLVING IMMEDIATE JEOPARDY.—If the Secretary determines on the basis of a standard survey or otherwise that a hos-
pice program that is certified for participation under
this title is no longer in compliance with the require-
ments specified in section 1861(dd) and determines
that the deficiencies involved do not immediately
jeopardize the health and safety of the individuals to
whom the program furnishes items and services, the
Secretary may (for a period not to exceed 6 months)
impose remedies developed pursuant to paragraph
(5)(A), in lieu of terminating the certification of the
program. If, after such a period of remedies, the
program is still no longer in compliance with such
requirements, the Secretary shall terminate the cer-
tification of the program.

“(3) Penalty for previous noncompliance.—If the Secretary determines that a hospice
program that is certified for participation under this
title is in compliance with the requirements specified
in section 1861(dd) but, as of a previous period, did
not meet such requirements, the Secretary may pro-
vide for a civil monetary penalty under paragraph
(5)(B)(i) for the days in which the Secretary finds
that the program was not in compliance with such
requirements.

“(4) Option to continue payments for
noncompliant hospice programs.—The Sec-
retary may continue payments under this title with respect to a hospice program not in compliance with the requirements specified in section 1861(dd) over a period of not longer than 6 months, if—

“(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the program with such requirements than to terminate the certification of the program;

“(B) the program has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action; and

“(C) the program agrees to repay to the Federal Government payments received under this title during such period if the corrective action is not taken in accordance with the approved plan and timetable.

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

“(5) RemEdies.—

“(A) Development.—
“(i) IN GENERAL.—Not later than October 1, 2021, the Secretary shall develop and implement—

“(I) a range of remedies to apply to hospice programs under the conditions described in paragraphs (1) through (4); and

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

Remedies developed pursuant to the preceding sentence shall include the remedies specified in subparagraph (B).

“(ii) CONDITIONS OF IMPOSITION OF REMEDIES.—Not later than October 1, 2021, the Secretary shall develop and implement specific procedures with respect to the conditions under which each of the remedies developed under clause (i) is to be applied, including the amount of any fines and the severity of each of these remedies. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these remedies and shall provide for the imposi-
tion of incrementally more severe fines for repeated or uncorrected deficiencies.

“(B) SPECIFIED REMEDIES.—The remedies specified in this subparagraph are the following:

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

“(ii) Suspension of all or part of the payments to which a hospice program would otherwise be entitled under this title with respect to items and services furnished by a hospice program on or after the date on which the Secretary determines that remedies should be imposed pursuant to paragraph (2).

“(iii) The appointment of temporary management to oversee the operation of the hospice program and to protect and assure the health and safety of the individuals under the care of the program while improvements are made in order to bring
the program into compliance with all such requirements.

“(C) PROCEDURES.—

“(i) CIVIL MONETARY PENALTIES.—

“(I) IN GENERAL.—Subject to subclause (II), the provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil monetary penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

“(II) RETENTION OF AMOUNTS FOR HOSPICE PROGRAM IMPROVEMENTS.—The Secretary may provide that any portion of civil monetary penalties collected under this subsection may be used to support activities that benefit individuals receiving hospice care, including education and training programs to ensure hospice program compliance with the requirements of section 1861(dd).

“(ii) SUSPENSION OF PAYMENT.—A finding to suspend payment under sub-
paragraph (B)(ii) shall terminate when the Secretary finds that the program is in substantial compliance with all such requirements.

“(iii) Temporary management.— The temporary management under subparagraph (B)(iii) shall not be terminated until the Secretary has determined that the program has the management capability to ensure continued compliance with all the requirements referred to in such subparagraph.

“(D) Relationship to other remedies.—The remedies developed under subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.”.

(2) Availability of hospice accreditation surveys.—Section 1865(b) of the Social Security Act (42 U.S.C. 1395bb(b)) is amended by inserting “or, beginning on the date of the enactment of the BENES Act of 2020, a hospice program” after “home health agency”.

(3) **State provision of hospice program information.**—

(A) **In general.**—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended in the sixth sentence—

(i) by inserting “and hospice programs” after “information on home health agencies”;

(ii) by inserting “or the hospice program” after “the home health agency”;

(iii) by inserting “or the hospice program” after “with respect to the agency”; and

(iv) by inserting “and hospice programs” after “with respect to home health agencies”.

(B) **Effective date.**—The amendments made by subparagraph (A) shall apply with respect to agreements entered into on or after, or in effect as of, the date that is 1 year after the date of the enactment of this Act.

(4) **Conforming amendments.**—

(A) **Definition of a hospice program.**—Section 1861(dd)(4) of the Social Secu-
rity Act (42 U.S.C. 1395x(dd)(4)) is amended by striking subparagraph (C).

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

(b) INCREASING PAYMENT REDUCTIONS FOR FAILURE TO MEET QUALITY DATA REPORTING REQUIREMENTS.—Section 1814(i)(5)(A)(i) of the Social Security Act (42 U.S.C. 1395f(i)(5)(A)(i)) is amended by inserting "(or, for fiscal year 2023 and each subsequent fiscal year, 4 percentage points)" before the period.

(c) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing an analysis of the effects of the amendments made by subsection (a), including the frequency of application of remedies specified in section 1822(c)(5)(B) of the Social Security Act (as added by such subsection), on access to, and quality of, care furnished by hospice programs under part A of title XVIII of the Social Security Act (42 U.S.C. 1395e et seq.).