

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO 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-
17 tion 1861(s)(2)(J))” before “, with the thirty-sixth
18 month”.

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

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

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

8 (ii) by adding at the end the following
9 new subsection:

10 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-
11 SUPPRESSIVE DRUG COVERAGE.—

12 “(1) IN GENERAL.—Except as provided under
13 paragraph (2), every individual whose entitlement to
14 insurance benefits under part A ends (whether be-
15 fore, on, or after January 1, 2022) by reason of sec-
16 tion 226A(b)(2) is eligible to enroll in the insurance
17 program established by this part solely for purposes
18 of coverage of immunosuppressive drugs in accord-
19 ance with section 1837(m).

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

22 “(A) IN GENERAL.—An individual de-
23 scribed in paragraph (1) shall not be eligible for
24 enrollment in the program for purposes of cov-
25 erage described in such paragraph with respect

1 to any period in which the individual, as deter-
2 mined in accordance with subparagraph (B)—

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

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

11 “(iii)(I) is enrolled in the patient en-
12 rollment system of the Department of Vet-
13 erans Affairs established and operated
14 under section 1705 of title 38, United
15 States Code;

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

20 “(III) is otherwise eligible under a
21 provision of title 38, United States Code,
22 other than section 1710 of such title to re-
23 ceive immunosuppressive drugs described
24 in this subsection.

25 “(B) ELIGIBILITY DETERMINATIONS.—

1 “(i) IN GENERAL.—The Secretary, in
2 coordination with the Commissioner of So-
3 cial Security, shall establish a process for
4 determining whether an individual de-
5 scribed in paragraph (1) who is to be en-
6 rolled or deemed to be enrolled in the in-
7 surance program described in such para-
8 graph meets the requirements for such en-
9 rollment under this subsection, including
10 the requirement that the individual not be
11 enrolled in other coverage as described in
12 subparagraph (A).

13 “(ii) ATTESTATION REGARDING
14 OTHER COVERAGE.—The process estab-
15 lished under clause (i) shall include, at a
16 minimum, a requirement that—

17 “(I) the individual provide to the
18 Commissioner an attestation that the
19 individual is not enrolled in such other
20 coverage; and

21 “(II) the individual notify the
22 Secretary within 60 days of any
23 change in the insurance coverage of
24 the individual.”.

1 (B) CONFORMING AMENDMENT.—Sections
2 1837, 1838, and 1839 of the Social Security
3 Act (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42
4 U.S.C. 1395r) are each amended by striking
5 “1836” and inserting “1836(a)” each place it
6 appears.

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

12 “(m)(1) Any individual who is eligible under section
13 1836(b) to enroll in the medical insurance program estab-
14 lished under this part for purposes of coverage of immuno-
15 suppressive drugs may enroll 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 2022, may enroll beginning on the first day of the third
22 month before the month in which the individual first satis-
23 fies section 1836(b).

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, 2022, shall be deemed to have enrolled in the medical
3 insurance program established by this part for purposes
4 of coverage of immunosuppressive drugs.

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

15 (c) COVERAGE PERIOD FOR INDIVIDUALS ONLY ELI-
16 GIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE
17 DRUGS.—

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

21 “(g) In the case of an individual described in section
22 1836(b)(1), the following rules shall apply:

23 “(1) In the case of such an individual who is
24 deemed to have enrolled in part B for coverage of
25 immunosuppressive drugs under section 1837(m)(3),

1 such individual's coverage period shall begin on the
2 first day of the month in which the individual first
3 satisfies section 1836(b).

4 “(2) In the case of such an individual who en-
5 rolls (or reenrolls, if applicable) in part B for cov-
6 erage of immunosuppressive drugs under paragraph
7 (2) or (4) of section 1837(m), such individual's cov-
8 erage period shall begin on January 1, 2022, or the
9 month following the month in which the individual
10 so enrolls (or reenrolls), whichever is later.

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

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

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

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

6 (d) PREMIUMS FOR INDIVIDUALS ONLY ELIGIBLE
7 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
8 tion 1839 of the Social Security Act (42 U.S.C. 1395r)
9 is amended—

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

15 (2) by adding at the end the following new sub-
16 section:

17 “(j) DETERMINATION OF PREMIUM FOR INDIVID-
18 UALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNO-
19 SUPPRESSIVE DRUGS.—The Secretary shall, during Sep-
20 tember of each year (beginning with 2021), determine and
21 promulgate a monthly premium rate for the succeeding
22 calendar year for individuals who enroll only for the pur-
23 pose of coverage of immunosuppressive drugs under sec-
24 tion 1836(b). Such premium shall be equal to 35 percent
25 of the monthly actuarial rate for enrollees age 65 and over,

1 determined according to paragraph (1), for that suc-
2 ceeding calendar year. The monthly premium of each indi-
3 vidual enrolled for coverage of immunosuppressive drugs
4 under section 1836(b) for each month shall be the amount
5 promulgated in this subsection. Such amount shall be ad-
6 justed in accordance with subsections (c), (f), and (i), but
7 shall not be adjusted under subsection (b).”.

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

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

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

15 “(4) a Government contribution equal to the es-
16 timated aggregate reduction in premiums payable
17 under part B that results from establishing the pre-
18 mium at 35 percent of the actuarial rate under sec-
19 tion 1839(j) instead of 50 percent of the actuarial
20 rate for individuals who enroll only for the purpose
21 of coverage of immunosuppressive drugs under sec-
22 tion 1836(b).”; and

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

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

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

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

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

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

23 (b) REPORT.—Not later than January 1, 2024, the
24 Comptroller General shall submit to Congress a report on
25 the study conducted under subsection (a), together with

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

