

Committee Print

[SHOWING THE TEXT OF H.R. 5534 AS FAVORABLY FORWARDED BY THE
SUBCOMMITTEE ON HEALTH ON MARCH 11, 2020]

116TH CONGRESS
2D 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 (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

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,*

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”.

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

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

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

1 (ii) by adding at the end the following
2 new subsection:

3 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-
4 SUPPRESSIVE DRUG COVERAGE.—

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

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

15 “(A) IN GENERAL.—An individual de-
16 scribed in paragraph (1) shall not be eligible for
17 enrollment in the program for purposes of cov-
18 erage described in such paragraph with respect
19 to any period in which the individual, as deter-
20 mined in accordance with subparagraph (B)—

21 “(i) is enrolled in a group health plan
22 or group or individual health insurance
23 coverage, as such terms are defined in sec-
24 tion 2791 of the Public Health Service
25 Act;

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

4 “(iii)(I) is enrolled in the patient en-
5 rollment system of the Department of Vet-
6 erans Affairs established and operated
7 under section 1705 of title 38, United
8 States Code;

9 “(II) is not required to enroll under
10 section 1705 of such title to receive im-
11 munosuppressive drugs described in this
12 subsection; or

13 “(III) is otherwise eligible under a
14 provision of title 38, United States Code,
15 other than section 1710 of such title to re-
16 ceive immunosuppressive drugs described
17 in this subsection.

18 “(B) ELIGIBILITY DETERMINATIONS.—

19 “(i) IN GENERAL.—The Secretary, in
20 coordination with the Commissioner of So-
21 cial Security, shall establish a process for
22 determining whether an individual de-
23 scribed in paragraph (1) who is to be en-
24 rolled or deemed to be enrolled in the in-
25 surance program described in such para-

1 graph meets the requirements for such en-
2 rollment under this subsection, including
3 the requirement that the individual not be
4 enrolled in other coverage as described in
5 subparagraph (A).

6 “(ii) ATTESTATION REGARDING
7 OTHER COVERAGE.—The process estab-
8 lished under clause (i) shall include, at a
9 minimum, a requirement that—

10 “(I) the individual provide to the
11 Commissioner an attestation that the
12 individual is not enrolled in such other
13 coverage; and

14 “(II) the individual notify the
15 Secretary within 60 days of any
16 change in the insurance coverage of
17 the individual.”

18 (B) CONFORMING AMENDMENT.—Sections
19 1837, 1838, and 1839 of the Social Security
20 Act (42 U.S.C. 1395p, 42 U.S.C. 1395q, 42
21 U.S.C. 1395r) are each amended by striking
22 “1836” and inserting “1836(a)” each place it
23 appears.

24 (b) ENROLLMENT FOR INDIVIDUALS ONLY ELIGIBLE
25 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-

1 tion 1837 of the Social Security Act (42 U.S.C. 1395p)
2 is amended by adding at the end the following new sub-
3 section:

4 “(m)(1) Any individual who is eligible under section
5 1836(b) to enroll in the medical insurance program estab-
6 lished under this part for purposes of coverage of immuno-
7 suppressive drugs may enroll only in such manner and
8 form as may be prescribed by regulations, and only during
9 an enrollment period described in this subsection.

10 “(2) An individual described in paragraph (1) whose
11 entitlement for hospital insurance benefits under part A
12 ends by reason of section 226A(b)(2) prior to January 1,
13 2022, may enroll beginning on the first day of the third
14 month before the month in which the individual first satis-
15 fies section 1836(b).

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

22 “(4) The Secretary shall establish a process under
23 which an individual described in paragraph (1) whose
24 other coverage described in section 1836(b)(2)(A), or cov-
25 erage under this part (including the medical insurance

1 program established under this part for purposes of cov-
2 erage of immunosuppressive drugs) is terminated volun-
3 tarily or involuntary may enroll or reenroll, if applicable,
4 in the medical insurance program established under this
5 part for purposes of coverage of immunosuppressive
6 drugs.”.

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

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

13 “(g) In the case of an individual described in section
14 1836(b)(1), the following rules shall apply:

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

21 “(2) In the case of such an individual who en-
22 rolls (or reenrolls, if applicable) in part B for cov-
23 erage of immunosuppressive drugs under paragraph
24 (2) or (4) of section 1837(m), such individual’s cov-
25 erage period shall begin on January 1, 2022, or the

1 month following the month in which the individual
2 so enrolls (or reenrolls), whichever is later.

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

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

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

17 (2) CONFORMING AMENDMENTS.—Section
18 1838(b) of the Social Security Act (42 U.S.C.
19 1395q(b)) is amended, in the matter following para-
20 graph (2), by inserting “or section 1837(m)(3)”
21 after “section 1837(f)” each place it appears.

22 (d) PREMIUMS FOR INDIVIDUALS ONLY ELIGIBLE
23 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
24 tion 1839 of the Social Security Act (42 U.S.C. 1395r)
25 is amended—

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

6 (2) by adding at the end the following new sub-
7 section:

8 “(j) DETERMINATION OF PREMIUM FOR INDIVID-
9 UALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNO-
10 SUPPRESSIVE DRUGS.—The Secretary shall, during Sep-
11 tember of each year (beginning with 2021), determine and
12 promulgate a monthly premium rate for the succeeding
13 calendar year for individuals who enroll only for the pur-
14 pose of coverage of immunosuppressive drugs under sec-
15 tion 1836(b). Such premium shall be equal to 35 percent
16 of the monthly actuarial rate for enrollees age 65 and over,
17 determined according to paragraph (1), for that suc-
18 ceeding calendar year. The monthly premium of each indi-
19 vidual enrolled for coverage of immunosuppressive drugs
20 under section 1836(b) for each month shall be the amount
21 promulgated in this subsection. Such amount shall be ad-
22 justed in accordance with subsections (c), (f), and (i), but
23 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.

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

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

16 (b) REPORT.—Not later than January 1, 2024, the
17 Comptroller General shall submit to Congress a report on
18 the study conducted under subsection (a), together with
19 recommendations as the Comptroller General determines
20 appropriate.