

108TH CONGRESS
1ST SESSION

S. 191

To amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received a kidney transplant, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2003

Mr. DEWINE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received a kidney transplant, 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 “Immunosuppressive
5 Drug Coverage Act of 2003”.

1 **SEC. 2. PROVISION OF APPROPRIATE COVERAGE OF IM-**
2 **MUNOSUPPRESSIVE DRUGS UNDER THE**
3 **MEDICARE PROGRAM.**

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

7 (1) IN GENERAL.—Section 226A(b)(2) of the
8 Social Security Act (42 U.S.C. 426–1(b)(2)) is
9 amended by inserting “(except for coverage of im-
10 munosuppressive drugs under section
11 1861(s)(2)(J))” after “shall end”.

12 (2) APPLICATION.—In the case of an individual
13 whose eligibility for benefits under title XVIII of the
14 Social Security Act (42 U.S.C. 1395 et seq.) has
15 ended except for the coverage of immunosuppressive
16 drugs by reason of the amendment made by para-
17 graph (1), the following rules shall apply:

18 (A) The individual shall be deemed to be
19 enrolled in part B of the original medicare fee-
20 for-service program under title XVIII of the So-
21 cial Security Act (42 U.S.C. 1395j et seq.) for
22 purposes of receiving coverage of such drugs.

23 (B) The individual shall be responsible for
24 the full part B premium under section 1839 of
25 such Act (42 U.S.C. 1395r) in order to receive
26 such coverage.

1 (C) The provision of such drugs shall be
2 subject to the application of—

3 (i) the part B deductible under section
4 1833(b) of such Act (42 U.S.C. 1395l(b));
5 and

6 (ii) the coinsurance amount applicable
7 for such drugs (as determined under such
8 part B).

9 (D) If the individual is an inpatient of a
10 hospital or other entity, the individual is enti-
11 tled to receive coverage of such drugs under
12 such part B.

13 (3) ESTABLISHMENT OF PROCEDURES IN
14 ORDER TO IMPLEMENT COVERAGE.—The Secretary
15 of Health and Human Services shall establish proce-
16 dures for—

17 (A) identifying beneficiaries that are enti-
18 tled to coverage of immunosuppressive drugs by
19 reason of the amendment made by paragraph
20 (1); and

21 (B) distinguishing such beneficiaries from
22 beneficiaries that are enrolled under part B of
23 title XVIII of the Social Security Act for the
24 complete package of benefits under such part.

1 300gg–4 et seq.) is amended by adding at the end
 2 the following:

3 **“SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

4 “A group health plan (and a health insurance issuer
 5 offering health insurance coverage in connection with a
 6 group health plan) shall provide coverage of immuno-
 7 suppressive drugs that is at least as comprehensive as the
 8 coverage provided by such plan or issuer on the day before
 9 the date of enactment of the Immunosuppressive Drug
 10 Coverage Act of 2003, and such requirement shall be
 11 deemed to be incorporated into this section.”.

12 (2) CONFORMING AMENDMENT.—Section
 13 2721(b)(2)(A) of the Public Health Service Act (42
 14 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting
 15 “(other than section 2707)” after “requirements of
 16 such subparts”.

17 (b) APPLICATION TO GROUP HEALTH PLANS AND
 18 GROUP HEALTH INSURANCE COVERAGE UNDER THE EM-
 19 PLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

20 (1) IN GENERAL.—Subpart B of part 7 of sub-
 21 title B of title I of the Employee Retirement Income
 22 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
 23 amended by adding at the end the following new sec-
 24 tion:

1 **“SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

2 “A group health plan (and a health insurance issuer
3 offering health insurance coverage in connection with a
4 group health plan) shall provide coverage of immuno-
5 suppressive drugs that is at least as comprehensive as the
6 coverage provided by such plan or issuer on the day before
7 the date of enactment of the Immunosuppressive Drug
8 Coverage Act of 2003, and such requirement shall be
9 deemed to be incorporated into this section.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 732(a) of the Employee Retirement
12 Income Security Act of 1974 (29 U.S.C.
13 1185(a)) is amended by striking “section 711”
14 and inserting “sections 711 and 714”.

15 (B) The table of contents in section 1 of
16 the Employee Retirement Income Security Act
17 of 1974 is amended by inserting after the item
18 relating to section 713 the following new item:

“Sec. 714. Coverage of Immunosuppressive drugs.”.

19 (c) APPLICATION TO GROUP HEALTH PLANS UNDER
20 THE INTERNAL REVENUE CODE OF 1986.—Subchapter B
21 of chapter 100 of the Internal Revenue Code of 1986 is
22 amended—

1 (1) in the table of sections, by inserting after
2 the item relating to section 9812 the following new
3 item:

 “Sec. 9813. Coverage of immunosuppressive drugs.”;

4 and

5 (2) by inserting after section 9812 the fol-
6 lowing:

7 **“SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

8 “A group health plan shall provide coverage of im-
9 munosuppressive drugs that is at least as comprehensive
10 as the coverage provided by such plan on the day before
11 the date of enactment of the Immunosuppressive Drug
12 Coverage Act of 2003, and such requirement shall be
13 deemed to be incorporated into this section.”.

14 (d) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to plan years beginning on or after
16 January 1, 2004.

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