

112TH CONGRESS  
1ST SESSION

# H. R. 2969

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 other renal dialysis provisions.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2011

Mr. BURGESS (for himself, Mr. KIND, Mr. LEWIS of California, Mrs. BLACKBURN, Mr. HIMES, Mr. LATHAM, Mr. SMITH of New Jersey, Mr. ROGERS of Michigan, Mr. HURT, Mr. YOUNG of Florida, Mr. LANCE, Mr. BACHUS, Mr. MCKINLEY, Mr. KILDEE, Ms. SCHAKOWSKY, Mr. BOREN, Mr. STARK, Mr. INSLEE, and Mr. LEWIS of Georgia) 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

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## 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 other renal dialysis provisions.

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 2011”.

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) **KIDNEY TRANSPLANT RECIPIENTS.—**Sec-  
13 tion 226A(b)(2) of the Social Security Act (42  
14 U.S.C. 426–1(b)(2)) is amended by inserting “(ex-  
15 cept for eligibility for enrollment under part B solely  
16 for purposes of coverage of immunosuppressive  
17 drugs described in section 1861(s)(2)(J))” before “,  
18 with the thirty-sixth month”.

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

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

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

25 (ii) by inserting at the end the fol-  
26 lowing new subsection:

1       “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-  
2 SUPPRESSIVE DRUG COVERAGE.—Beginning on January  
3 1, 2012, every individual whose insurance benefits under  
4 part A have ended (whether before, on, or after such date)  
5 by reason of section 226A(b)(2) is eligible for enrollment  
6 in the insurance program established by this part solely  
7 for purposes of coverage of immunosuppressive drugs.”.

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

14              (3) ENROLLMENT FOR INDIVIDUALS ONLY ELI-  
15              GIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
16              DRUGS.—Section 1837 of the Social Security Act  
17              (42 U.S.C. 1395(p)) is amended by adding at the  
18              end the following new subsection:

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

1       “(2) An individual described in paragraph (1) may  
2 enroll beginning on the first day of the third month before  
3 the month in which the individual first satisfies section  
4 1836(b).

5       “(3) An individual described in paragraph (1) whose  
6 entitlement for hospital insurance benefits under part A  
7 ends by reason of section 226A(b)(2) on or after January  
8 1, 2012, shall be deemed to have enrolled in the medical  
9 insurance program established by this part for purposes  
10 of coverage of immunosuppressive drugs.”.

11               (4) COVERAGE PERIOD FOR INDIVIDUALS ONLY  
12 ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
13 DRUGS.—

14               (A) IN GENERAL.—Section 1838 of the So-  
15 cial Security Act (42 U.S.C. 1395(q)) is amend-  
16 ed by adding at the end the following new sub-  
17 section:

18       “(g) In the case of an individual described in section  
19 1836(b), the following rules shall apply:

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

1           “(2) In the case of such an individual who en-  
2           rolls in part B for coverage of immunosuppressive  
3           drugs under section 1837(m)(2), such individual’s  
4           coverage period shall begin on the first day of the  
5           month in which the individual first satisfies section  
6           1836(b) or the month following the month in which  
7           the individual so enrolls, whichever is later.

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

11          “(4) In addition to the reasons for termination  
12          under subsection (b), the coverage period of an indi-  
13          vidual described in paragraph (1) or (2) shall end  
14          when the individual becomes entitled to benefits  
15          under this title under section 226(a), 226(b), or  
16          226A.”.

17                   (B) CONFORMING AMENDMENTS.—Section  
18                   1838(b) is amended in the matter following  
19                   paragraph (2) by adding “or section  
20                   1837(m)(3)” after “section 1837(f)” each place  
21                   it appears.

22           (5) PREMIUMS FOR INDIVIDUALS ONLY ELIGI-  
23           BLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
24           DRUGS.—Section 1839 of the Social Security Act  
25           (42 U.S.C. 1395r) is amended—

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

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

9 “(j) DETERMINATION OF PREMIUM FOR INDIVID-  
10 UALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNO-  
11 SUPPRESSIVE DRUGS.—The Secretary shall, during Sep-  
12 tember of each year, determine and promulgate a monthly  
13 premium rate for the succeeding calendar year for individ-  
14 uals who enroll only for the purpose of coverage of im-  
15 munosuppressive drugs under section 1836(b). Such pre-  
16 mium shall be equal to 35 percent of the monthly actuarial  
17 rate for enrollees age 65 and over, determined according  
18 to paragraph (1), for that succeeding calendar year. The  
19 monthly premium of each individual enrolled for coverage  
20 of immunosuppressive drugs under section 1836(b) for  
21 each month shall be the amount promulgated in this sub-  
22 section. Such amount shall be adjusted in accordance with  
23 subsections (c) and (f).”.

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

4           (A) in paragraph (3), by striking the pe-  
5 riod at the end and inserting “; plus”;

6           (B) by adding at the end the following new  
7 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           (C) by adding at the end the following  
17 flush matter:

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

22           (7) EXTENSION OF SECONDARY PAYER RE-  
23 QUIREMENTS FOR ESRD BENEFICIARIES ELIGIBLE  
24 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—  
25 Section 1862(b)(1)(C) (42 U.S.C. 1395(y)(b)(1)) is

1 amended by adding at the end the following new  
2 sentence: “With regard to immunosuppressive drugs  
3 furnished to an individual who enrolls for the pur-  
4 pose of coverage of immunosuppressive drugs under  
5 section 1836(b) on or after January 1, 2012, this  
6 subparagraph shall apply without regard to any time  
7 limitation, except that when such individual becomes  
8 entitled to benefits under this title under sections  
9 226(a) or 226(b), or entitled to or eligible for bene-  
10 fits under this title under section 226A, the provi-  
11 sions of subparagraphs (A) and (B), and the time  
12 limitations under this subparagraph, respectively,  
13 shall apply.”.

14 (8) ENSURING COVERAGE UNDER THE MEDI-  
15 CARE SAVINGS PROGRAM.—Section 1905(p)(1)(A) of  
16 the Social Security Act (42 U.S.C. 1396d(p)(1)(A))  
17 is amended by inserting “or an individual who is en-  
18 rolled under part B for the purpose of coverage of  
19 immunosuppressive drugs under section 1836(b)”  
20 after “section 1818”.

21 (9) PART D.—Section 1860D–1(a)(3)(A) of the  
22 Social Security Act (42 U.S.C. 1395w–101(a)(3)(A))  
23 is amended by inserting “(but not including an indi-  
24 vidual enrolled solely for coverage of immuno-



1 suppressive drugs under section 1836(b))” before  
2 the period at the end.

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