

110TH CONGRESS  
1ST SESSION

# S. 2320

To amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 2007

Mr. DURBIN (for himself and Mr. COCHRAN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, 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 “Comprehensive Im-  
5        munosuppressive Drug Coverage for Kidney Transplant  
6        Patients Act of 2007”.

1 **SEC. 2. PROVISION OF APPROPRIATE COVERAGE OF IM-**  
 2 **MUNOSUPPRESSIVE DRUGS UNDER THE**  
 3 **MEDICARE PROGRAM FOR KIDNEY TRANS-**  
 4 **PLANT RECIPIENTS.**

5 (a) CONTINUED ENTITLEMENT TO IMMUNO-  
 6 SUPPRESSIVE DRUGS.—

7 (1) KIDNEY TRANSPLANT RECIPIENTS.—Sec-  
 8 tion 226A(b)(2) of the Social Security Act (42  
 9 U.S.C. 426–1(b)(2)) is amended by inserting “(ex-  
 10 cept for coverage of immunosuppressive drugs under  
 11 section 1861(s)(2)(J))” after “shall end”.

12 (2) APPLICATION.—Section 1836 of the Social  
 13 Security Act (42 U.S.C. 1395o) is amended—

14 (A) by striking “Every individual who”  
 15 and inserting “(a) IN GENERAL.—Every indi-  
 16 vidual who”; and

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

19 “(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS  
 20 ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
 21 DRUGS.—

22 “(1) IN GENERAL.—In the case of an individual  
 23 whose eligibility for benefits under this title has  
 24 ended except for the coverage of immunosuppressive  
 25 drugs by reason of section 226A(b)(2), the following  
 26 rules shall apply:

1           “(A) The individual shall be deemed to be  
2 enrolled under this part for purposes of receiv-  
3 ing coverage of such drugs.

4           “(B) The individual shall be responsible  
5 for the full amount of the premium under sec-  
6 tion 1839 in order to receive such coverage.

7           “(C) The provision of such drugs shall be  
8 subject to the application of—

9                   “(i) the deductible under section  
10 1833(b); and

11                   “(ii) the coinsurance amount applica-  
12 ble for such drugs (as determined under  
13 this part).

14           “(D) If the individual is an inpatient of a  
15 hospital or other entity, the individual is enti-  
16 tled to receive coverage of such drugs under  
17 this part.

18           “(2) ESTABLISHMENT OF PROCEDURES IN  
19 ORDER TO IMPLEMENT COVERAGE.—The Secretary  
20 shall establish procedures for—

21                   “(A) identifying beneficiaries that are enti-  
22 tled to coverage of immunosuppressive drugs by  
23 reason of section 226A(b)(2); and

24                   “(B) distinguishing such beneficiaries from  
25 beneficiaries that are enrolled under this part

1           for the complete package of benefits under this  
2           part.”.

3           (3) TECHNICAL AMENDMENT.—Subsection (c)  
4           of section 226A of the Social Security Act (42  
5           U.S.C. 426–1), as added by section 201(a)(3)(D)(ii)  
6           of the Social Security Independence and Program  
7           Improvements Act of 1994 (Public Law 103–296;  
8           108 Stat. 1497), is redesignated as subsection (d).

9           (b) EXTENSION OF SECONDARY PAYER REQUIRE-  
10          MENTS FOR ESRD BENEFICIARIES.—Section  
11          1862(b)(1)(C) of the Social Security Act (42 U.S.C.  
12          1395y(b)(1)(C)) is amended by adding at the end the fol-  
13          lowing new sentence: “With regard to immunosuppressive  
14          drugs furnished on or after the date of enactment of the  
15          Comprehensive Immunosuppressive Drug Coverage for  
16          Kidney Transplant Patients Act of 2007, this subpara-  
17          graph shall be applied without regard to any time limita-  
18          tion.”.

19          (c) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply to drugs furnished on or after the  
21          date of enactment of this Act.

1 **SEC. 3. PLANS REQUIRED TO MAINTAIN COVERAGE OF IM-**  
2 **MUNOSUPPRESSIVE DRUGS FOR KIDNEY**  
3 **TRANSPLANT RECIPIENTS.**

4 (a) APPLICATION TO CERTAIN HEALTH INSURANCE  
5 COVERAGE.—

6 (1) IN GENERAL.—Subpart 2 of part A of title  
7 XXVII of the Public Health Service Act (42 U.S.C.  
8 300gg-4 et seq.) is amended by adding at the end  
9 the following:

10 **“SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS**  
11 **FOR KIDNEY TRANSPLANT RECIPIENTS.**

12 “A group health plan (and a health insurance issuer  
13 offering health insurance coverage in connection with a  
14 group health plan) shall provide coverage of immuno-  
15 suppressive drugs in connection with a kidney transplant  
16 that is at least as comprehensive as the coverage provided  
17 by such plan or issuer on the day before the date of enact-  
18 ment of the Comprehensive Immunosuppressive Drug  
19 Coverage for Kidney Transplant Patients Act of 2007,  
20 and such requirement shall be deemed to be incorporated  
21 into this section.”.

22 (2) CONFORMING AMENDMENT.—Section  
23 2721(b)(2)(A) of the Public Health Service Act (42  
24 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting  
25 “(other than section 2707)” after “requirements of  
26 such subparts”.

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

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

9 **“SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS**  
10 **FOR KIDNEY TRANSPLANT RECIPIENTS.**

11 “A group health plan (and a health insurance issuer  
12 offering health insurance coverage in connection with a  
13 group health plan) shall provide coverage of immuno-  
14 suppressive drugs in connection with a kidney transplant  
15 that is at least as comprehensive as the coverage provided  
16 by such plan or issuer on the day before the date of enact-  
17 ment of the Comprehensive Immunosuppressive Drug  
18 Coverage for Kidney Transplant Patients Act of 2007,  
19 and such requirement shall be deemed to be incorporated  
20 into this section.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 732(a) of the Employee Retirement  
23 ment Income Security Act of 1974 (29 U.S.C.  
24 1191(a)) is amended by striking “section 711”  
25 and inserting “sections 711 and 714”.

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

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

5 (c) APPLICATION TO GROUP HEALTH PLANS UNDER  
 6 THE INTERNAL REVENUE CODE OF 1986.—Subchapter B  
 7 of chapter 100 of the Internal Revenue Code of 1986 is  
 8 amended—

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

“Sec. 9813. Coverage of immunosuppressive drugs for kidney transplant recipients.”;

12 and

13 (2) by inserting after section 9812 the fol-  
 14 lowing:

15 **“SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS**  
 16 **FOR KIDNEY TRANSPLANT RECIPIENTS.**

17 “A group health plan shall provide coverage of im-  
 18 munosuppressive drugs in connection with a kidney trans-  
 19 plant that is at least as comprehensive as the coverage  
 20 provided by such plan on the day before the date of enact-  
 21 ment of the Comprehensive Immunosuppressive Drug  
 22 Coverage for Kidney Transplant Patients Act of 2007,

1 and such requirement shall be deemed to be incorporated  
2 into this section.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to plan years beginning on or after  
5 January 1, 2008.

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