

113TH CONGRESS  
1ST SESSION

# S. 323

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 SENATE OF THE UNITED STATES

FEBRUARY 13, 2013

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 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,*

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 2013”.

1 **SEC. 2. EXTENDED MONTHS OF COVERAGE OF IMMUNO-**  
 2 **SUPPRESSIVE DRUGS FOR KIDNEY TRANS-**  
 3 **PLANT PATIENTS AND OTHER RENAL DIALY-**  
 4 **SIS PROVISIONS.**

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

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

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

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

19 (i) by striking “Every” and inserting  
 20 “(a) IN GENERAL.—Every”; and

21 (ii) by inserting at the end the fol-  
 22 lowing new subsection:

23 “(b) INDIVIDUALS ELIGIBLE FOR IMMUNO-  
 24 SUPPRESSIVE DRUG COVERAGE.—Beginning on January  
 25 1, 2014, every individual whose insurance benefits under  
 26 part A have ended (whether before, on, or after such date)

1 by reason of section 226A(b)(2) is eligible for enrollment  
2 in the insurance program established by this part solely  
3 for purposes of coverage of immunosuppressive drugs.”.

4 (B) CONFORMING AMENDMENT.—Sections  
5 1837, 1838, and 1839 of the Social Security  
6 Act (42 U.S.C. 1395(p), 42 U.S.C. 1395(q), 42  
7 U.S.C. 1395(r)) are each amended by striking  
8 “1836” and inserting “1836(a)” each place it  
9 appears.

10 (3) ENROLLMENT FOR INDIVIDUALS ONLY ELI-  
11 GIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
12 DRUGS.—Section 1837 of the Social Security Act  
13 (42 U.S.C. 1395(p)) is amended by adding at the  
14 end the following new subsection:

15 “(m)(1) Any individual who is eligible under section  
16 1836(b) to enroll in the medical insurance program estab-  
17 lished under this part for purposes of coverage of immuno-  
18 suppressive drugs may enroll only in such manner and  
19 form as may be prescribed by regulations, and only during  
20 an enrollment period described in this subsection.

21 “(2) An individual described in paragraph (1) may  
22 enroll beginning on the first day of the third month before  
23 the month in which the individual first satisfies section  
24 1836(b).

1 “(3) An individual described in paragraph (1) whose  
 2 entitlement for hospital insurance benefits under part A  
 3 ends by reason of section 226A(b)(2) on or after January  
 4 1, 2014, shall be deemed to have enrolled in the medical  
 5 insurance program established by this part for purposes  
 6 of coverage of immunosuppressive drugs.”.

7 (4) COVERAGE PERIOD FOR INDIVIDUALS ONLY  
 8 ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE  
 9 DRUGS.—

10 (A) IN GENERAL.—Section 1838 of the So-  
 11 cial Security Act (42 U.S.C. 1395q) is amended  
 12 by adding at the end the following new sub-  
 13 section:

14 “(g) In the case of an individual described in section  
 15 1836(b), the following rules shall apply:

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

22 “(2) In the case of such an individual who en-  
 23 rolls in part B for coverage of immunosuppressive  
 24 drugs under section 1837(m)(2), such individual’s  
 25 coverage period shall begin on the first day of the

1 month in which the individual first satisfies section  
2 1836(b) or the month following the month in which  
3 the individual so enrolls, whichever is later.

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

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

13 (B) CONFORMING AMENDMENTS.—Section  
14 1838(b) of the Social Security Act (42 U.S.C.  
15 1395q(b)) is amended, in the matter following  
16 paragraph (2), by adding “or section  
17 1837(m)(3)” after “section 1837(f)” each place  
18 it appears.

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

23 (A) in subsection (b), by adding at the end  
24 the following new sentence: “No increase in the  
25 premium shall be effected for individuals who

1 are enrolled pursuant to section 1836(b) for  
 2 coverage only of immunosuppressive drugs.”;  
 3 and

4 (B) by adding at the end the following new  
 5 subsection:

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

21 (6) GOVERNMENT CONTRIBUTION.—Section  
 22 1844(a) of the Social Security Act (42 U.S.C.  
 23 1395w(a)) is amended—

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

1 (B) by adding at the end the following new  
2 paragraph:

3 “(4) a Government contribution equal to the es-  
4 timated aggregate reduction in premiums payable  
5 under part B that results from establishing the pre-  
6 mium at 35 percent of the actuarial rate under sec-  
7 tion 1839(j) instead of 50 percent of the actuarial  
8 rate for individuals who enroll only for the purpose  
9 of coverage of immunosuppressive drugs under sec-  
10 tion 1836(b).”; and

11 (C) by adding at the end the following  
12 flush matter:

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

17 (7) EXTENSION OF SECONDARY PAYER RE-  
18 QUIREMENTS FOR ESRD BENEFICIARIES ELIGIBLE  
19 FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—  
20 Section 1862(b)(1)(C) of the Social Security Act (42  
21 U.S.C. 1395(y)(b)(1)) is amended by adding at the  
22 end the following new sentence: “With regard to im-  
23 munosuppressive drugs furnished to an individual  
24 who enrolls for the purpose of coverage of immuno-  
25 suppressive drugs under section 1836(b) on or after

1 January 1, 2014, this subparagraph shall apply  
2 without regard to any time limitation, except that  
3 when such individual becomes entitled to benefits  
4 under this title under sections 226(a) or 226(b), or  
5 entitled to or eligible for benefits under this title  
6 under section 226A, the provisions of subparagraphs  
7 (A) and (B), and the time limitations under this  
8 subparagraph, respectively, shall apply.”.

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

16 (9) PART D.—Section 1860D–1(a)(3)(A) of the  
17 Social Security Act (42 U.S.C. 1395w–101(a)(3)(A))  
18 is amended by inserting “(but not including an indi-  
19 vidual enrolled solely for coverage of immuno-  
20 suppressive drugs under section 1836(b))” before  
21 the period at the end.

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