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 Representatives of the United States of America in Congress assembled,

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2019”.

5
SEC. 2. EXTENDED MONTHS OF COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT PATIENTS AND OTHER RENAL DIALYSIS PROVISIONS.

(a) Medicare Entitlement to Immunosuppressive Drugs for Kidney Transplant Recipients.—

(1) In general.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426–1(b)(2)) is amended by inserting “(except for eligibility for enrollment under part B solely for purposes of coverage of immunosuppressive drugs described in section 1861(s)(2)(J))” before “, with the thirty-sixth month”.

(2) Individuals eligible only for coverage of immunosuppressive drugs.—

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

(i) by striking “Every” and inserting “(a) In general.—Every”; and

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

“(b) Individuals eligible for immunosuppressive drug coverage.—
“(1) IN GENERAL.—Except as provided under paragraph (2), every individual whose insurance benefits under part A have ended (whether before, on, or after January 1, 2022) by reason of section 226A(b)(2) is eligible to enroll in the insurance program established by this part solely for purposes of coverage of immunosuppressive drugs in accordance with section 1837(m).

“(2) EXCEPTION IF OTHER HEALTH INSURANCE COVERAGE IS AVAILABLE.—

“(A) IN GENERAL.—An individual described in paragraph (1) shall not be eligible for enrollment in the insurance program described in such paragraph with respect to any period in which the individual—

“(i) is enrolled in a group health plan, as defined in section 2791(a)(1) of the Public Health Service Act, or individual health insurance coverage, as defined in section 2791(b)(5) of such Act, as determined in accordance with subparagraph (B);

“(ii) is eligible for benefits under—

“(I) a State plan under title XIX;
“(II) a State child health plan under title XXI; or

“(III) the TRICARE program under chapter 55 of title 10, United States Code;

“(iii) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code;

“(iv) is eligible for health care benefits under the laws administered by the Secretary of Veterans Affairs; or

“(v) is eligible to receive services from the Indian Health Service.

“(B) ELIGIBILITY DETERMINATIONS.—

“(i) IN GENERAL.—The Secretary, in consultation with the Administrator of Social Security, shall establish procedures for determining whether an individual described in paragraph (1) who is to be enrolled in the insurance program described in such paragraph meets the requirements for such enrollment under this subsection, including the requirement that the individual not have other health insurance coverage as described in subparagraph (A).
“(ii) Attestation regarding other coverage.—The procedures established under clause (i) shall include a requirement that—

“(I) the individual provide to the Secretary an attestation that the individual does not have such other health insurance coverage; and

“(II) update such attestation—

“(aa) on an annual basis; or

“(bb) if the health insurance coverage situation of the individual has changed.

“(C) Identification and reduction of improper payments.—The Secretary, in consultation with the Administrator of Social Security, shall—

“(i) establish procedures to ensure that any information provided with respect to other health insurance coverage described in subparagraph (A) of this paragraph for an individual described in paragraph (1) is provided to the appropriate medicare administrative contractor for purposes of identifying any improper pay-
ments made with respect to immuno-
suppressive drug coverage under this part;
and
“(ii) provide education to prevent or
reduce such improper payments, including
education through the improper payment
outreach and education program under
section 1847A(h).”.

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

(b) ENROLLMENT FOR INDIVIDUALS ONLY ELIGIBLE
FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—Sec-
tion 1837 of the Social Security Act (42 U.S.C. 1395p)
is amended by adding at the end the following new sub-
section:
“(m)(1) Any individual who is eligible under section
1836(b) to enroll in the medical insurance program estab-
lished under this part for purposes of coverage of immuno-
suppressive drugs may enroll only in such manner and
form as may be prescribed by regulations, and only during
an enrollment period described in this subsection.
“(2) An individual described in paragraph (1) whose entitlement for hospital insurance benefits under part A ends by reason of section 226A(b)(2) prior to January 1, 2022, may enroll beginning on the first day of the third month before the month in which the individual first satisfies section 1836(b), or a date specified by the Secretary prior to the first date on which coverage is effective under section 1838(g)(2), whichever is later. In implementing the preceding sentence, the Secretary shall consider procedures to expedite the enrollment of such an individual if practicable for purposes of providing continued coverage of immunosuppressive drugs for such individual pursuant to section 1838(g)(2).

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

“(4) The Secretary shall establish a process under which an individual described in paragraph (1) whose other health insurance coverage described in section 1836(b)(2)(A), or coverage under this part (including the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs) is ter-
minated voluntarily or involuntarily may enroll or reenroll, if applicable, in the medical insurance program established under this part for purposes of coverage of immunosuppressive drugs.”.

(c) **Coverage Period for Individuals Only Eligible for Coverage of Immunosuppressive Drugs.**—

(1) **In General.**—Section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:

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

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

“(2) In the case of such an individual who enrolls (or reenrolls) in part B for coverage of immunosuppressive drugs under paragraph (2) or (4) of section 1837(m), such individual’s coverage period shall begin on January 1, 2022 (or such earlier date as the Secretary may specify if practicable for purposes of providing continued coverage of immunosuppressive drugs).
suppressive drugs for such an individual), or the
month following the month in which the individual
so enrolls (or reenrolls), whichever is later.

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

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

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

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

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

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

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

“(j) Determination of Premium for Individ-
uals Only Eligible for Coverage of Immuno-
suppressive Drugs.—The Secretary shall, during Sep-
tember of each year (beginning with 2021), determine and
promulgate a monthly premium rate for the succeeding
calendar year for individuals who enroll only for the pur-
pose of coverage of immunosuppressive drugs under sec-
tion 1836(b). Such premium shall be equal to 35 percent
of the monthly actuarial rate for enrollees age 65 and over,
determined according to paragraph (1), for that suc-
ceeding calendar year. The monthly premium of each indi-
vidual enrolled for coverage of immunosuppressive drugs
under section 1836(b) for each month shall be the amount
promulgated in this subsection. Such amount shall be ad-
justed in accordance with subsections (c), (f), and (i), but
shall not be adjusted under subsection (b).”.
(e) Government Contribution.—Section 1844(a) of the Social Security Act (42 U.S.C. 1395w(a)) is amended—

(1) in paragraph (3), by striking the period at the end and inserting “; plus”;

(2) by inserting after paragraph (3) the following new paragraph:

“(4) a Government contribution equal to the estimated aggregate reduction in premiums payable under part B that results from establishing the premium at 35 percent of the actuarial rate under section 1839(j) instead of 50 percent of the actuarial rate for individuals who enroll only for the purpose of coverage of immunosuppressive drugs under section 1836(b).”; and

(3) by adding the following sentence at the end of the flush matter following paragraph (4), as added by paragraph (2) of this subsection:

“The Government contribution under paragraph (4) shall be treated as premiums payable and deposited for purposes of subparagraphs (A) and (B) of paragraph (1).”.

(f) Ensuring Coverage Under the Medicare Savings Program.—Section 1905(p)(1)(A) of the Social Security Act (42 U.S.C. 1396d(p)(1)(A)) is amended by
inserting “or an individual who is enrolled under part B for the purpose of coverage of immunosuppressive drugs under section 1836(b)” after “section 1818”.

(g) Part D.—Section 1860D–1(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–101(a)(3)(A)) is amended by inserting “(but not including an individual enrolled solely for coverage of immunosuppressive drugs under section 1836(b))” before the period at the end.