

111TH CONGRESS
1ST SESSION

H. R. 3200

To provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2009

Mr. DINGELL (for himself, Mr. RANGEL, Mr. WAXMAN, Mr. GEORGE MILLER of California, Mr. STARK, Mr. PALLONE, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and Labor, Oversight and Government Reform, and the Budget, 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 provide affordable, quality health care for all Americans and reduce the growth in health care spending, 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; TABLE OF DIVISIONS, TITLES,**
4 **AND SUBTITLES.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “America’s Affordable Health Choices Act of 2009”.

1 **SEC. 1232. EXTENDED MONTHS OF COVERAGE OF IMMUNO-**
2 **SUPPRESSIVE DRUGS FOR KIDNEY TRANS-**
3 **PLANT PATIENTS AND OTHER RENAL DIALY-**
4 **SIS PROVISIONS.**

5 (a) PROVISION OF APPROPRIATE COVERAGE OF IM-
6 MUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PRO-
7 GRAM FOR KIDNEY TRANSPLANT RECIPIENTS.—

8 (1) CONTINUED ENTITLEMENT TO IMMUNO-
9 SUPPRESSIVE DRUGS.—

10 (A) KIDNEY TRANSPLANT RECIPIENTS.—

11 Section 226A(b)(2) of the Social Security Act
12 (42 U.S.C. 426–1(b)(2)) is amended by insert-
13 ing “(except for coverage of immunosuppressive
14 drugs under section 1861(s)(2)(J))” before “,
15 with the thirty-sixth month”.

16 (B) APPLICATION.—Section 1836 of such
17 Act (42 U.S.C. 1395o) is amended—

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

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

23 “(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS
24 ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE
25 DRUGS.—

1 “(1) IN GENERAL.—In the case of an individual
2 whose eligibility for benefits under this title has
3 ended on or after January 1, 2012, except for the
4 coverage of immunosuppressive drugs by reason of
5 section 226A(b)(2), the following rules shall apply:

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

9 “(B) The individual shall be responsible
10 for providing for payment of the portion of the
11 premium under section 1839 which is not cov-
12 ered under the Medicare savings program (as
13 defined in section 1144(c)(7)) in order to re-
14 ceive such coverage.

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

17 “(i) the deductible under section
18 1833(b); and

19 “(ii) the coinsurance amount applica-
20 ble for such drugs (as determined under
21 this part).

22 “(D) If the individual is an inpatient of a
23 hospital or other entity, the individual is enti-
24 tled to receive coverage of such drugs under
25 this part.

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

4 “(A) identifying individuals that are enti-
5 tled to coverage of immunosuppressive drugs by
6 reason of section 226A(b)(2); and

7 “(B) distinguishing such individuals from
8 individuals that are enrolled under this part for
9 the complete package of benefits under this
10 part.”.

11 (C) TECHNICAL AMENDMENT TO CORRECT
12 DUPLICATE SUBSECTION DESIGNATION.—Sub-
13 section (d) of section 226A of such Act (42
14 U.S.C. 426–1), as added by section
15 201(a)(3)(D)(ii) of the Social Security Inde-
16 pendence and Program Improvements Act of
17 1994 (Public Law 103–296; 108 Stat. 1497), is
18 redesignated as subsection (d).

19 (2) EXTENSION OF SECONDARY PAYER RE-
20 QUIREMENTS FOR ESRD BENEFICIARIES.—Section
21 1862(b)(1)(C) of such Act (42 U.S.C.
22 1395y(b)(1)(C)) is amended by adding at the end
23 the following new sentence: “With regard to im-
24 munosuppressive drugs furnished on or after the
25 date of the enactment of the America’s Affordable

1 Health Choices Act of 2009, this subparagraph shall
2 be applied without regard to any time limitation.”.

3 (b) MEDICARE COVERAGE FOR ESRD PATIENTS.—

4 Section 1881 of such Act is further amended—

5 (1) in subsection (b)(14)(B)(iii), by inserting “,
6 including oral drugs that are not the oral equivalent
7 of an intravenous drug (such as oral phosphate bind-
8 ers and calcimimetics),” after “other drugs and
9 biologicals”;

10 (2) in subsection (b)(14)(E)(ii)—

11 (A) in the first sentence—

12 (i) by striking “a one-time election to
13 be excluded from the phase-in” and insert-
14 ing “an election, with respect to 2011,
15 2012, or 2013, to be excluded from the
16 phase-in (or the remainder of the phase-
17 in)”;

18 (ii) by adding at the end the fol-
19 lowing: “for such year and for each subse-
20 quent year during the phase-in described
21 in clause (i)”;

22 (B) in the second sentence—

23 (i) by striking “January 1, 2011” and
24 inserting “the first date of such year”;

- 1 (ii) by inserting “and at a time” after
2 “form and manner”; and
3 (3) in subsection (h)(4)(E), by striking “lesser”
4 and inserting “greater”.

5 **SEC. 1233. ADVANCE CARE PLANNING CONSULTATION.**

6 (a) **MEDICARE.**—

7 (1) **IN GENERAL.**—Section 1861 of the Social
8 Security Act (42 U.S.C. 1395x) is amended—

9 (A) in subsection (s)(2)—

10 (i) by striking “and” at the end of
11 subparagraph (DD);

12 (ii) by adding “and” at the end of
13 subparagraph (EE); and

14 (iii) by adding at the end the fol-
15 lowing new subparagraph:

16 “(FF) advance care planning consultation (as
17 defined in subsection (hhh)(1));”; and

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

20 “Advance Care Planning Consultation

21 “(hhh)(1) Subject to paragraphs (3) and (4), the
22 term ‘advance care planning consultation’ means a con-
23 sultation between the individual and a practitioner de-
24 scribed in paragraph (2) regarding advance care planning,
25 if, subject to paragraph (3), the individual involved has