

.....
(Original Signature of Member)

114TH CONGRESS
2^D SESSION

H. R. 5659

To amend title XVIII of the Social Security Act with respect to expanding Medicare Advantage coverage for individuals with end-stage renal disease (ESRD).

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Missouri (for himself, Mr. LEWIS, Mr. BILIRAKIS, and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act with respect to expanding Medicare Advantage coverage for individuals with end-stage renal disease (ESRD).

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 “Expanding Seniors Re-
5 ceiving Dialysis Choice Act of 2016” or as the “ESRD
6 Choice Act of 2016”.

1 **SEC. 2. EXPANDING MEDICARE ADVANTAGE COVERAGE**
2 **FOR INDIVIDUALS WITH END-STAGE RENAL**
3 **DISEASE (ESRD).**

4 (a) EXPANDED MA ELIGIBILITY.—

5 (1) IN GENERAL.—Section 1851(a)(3) of the
6 Social Security Act (42 U.S.C. 1395w–21(a)(3)) is
7 amended—

8 (A) by striking subparagraph (B); and

9 (B) by striking “ELIGIBLE INDIVIDUAL”
10 and all that follows through “In this title, sub-
11 ject to subparagraph (B),” and inserting “ELI-
12 GIBLE INDIVIDUAL.—In this title,”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 1852(b)(1) of the Social Secu-
15 rity Act (42 U.S.C. 1395w–22(b)(1)) is amend-
16 ed—

17 (i) by striking subparagraph (B); and

18 (ii) by striking “BENEFICIARIES” and
19 all that follows through “A
20 Medicare+Choice organization” and in-
21 sserting “BENEFICIARIES.—A Medicare Ad-
22 vantage organization.”.

23 (B) The flush sentence at the end of sec-
24 tion 1859(b)(6) of the Social Security Act (42
25 U.S.C. 1395w–28(b)(6)) is amended by striking

1 “may waive” and all that follows through “sub-
2 paragraph and”.

3 (b) EXCLUDING COSTS FOR KIDNEY ACQUISITIONS
4 FROM MA BENCHMARK.—Section 1853 of the Social Se-
5 curity Act (42 U.S.C. 1395w-23) is amended—

6 (1) in subsection (k)—

7 (A) in paragraph (1)—

8 (i) in the matter preceding subpara-
9 graph (A), by striking “paragraphs (2)
10 and (4)” and inserting “paragraphs (2),
11 (4), and (5)”; and

12 (ii) in subparagraph (B)(i), by strik-
13 ing “paragraphs (2) and (4)” and insert-
14 ing “paragraphs (2), (4), and (5)”; and

15 (B) by adding at the end the following new
16 paragraph:

17 “(5) EXCLUSION OF COSTS FOR KIDNEY ACQUI-
18 SITIONS FROM CAPITATION RATES.—After deter-
19 mining the applicable amount for an area for a year
20 under paragraph (1) (beginning with 2019), the Sec-
21 retary shall adjust such applicable amount to ex-
22 clude from such applicable amount the Secretary’s
23 estimate of the standardized costs for payments for
24 organ acquisitions for kidney transplants covered

1 under this title (including expenses covered under
2 section 1881(d)) in the area for the year.”; and

3 (2) in subsection (n)(2)—

4 (A) in subparagraph (A)(i), by inserting
5 “and, for 2019 and subsequent years, the exclu-
6 sion of payments for organ acquisitions for kid-
7 ney transplants from the capitation rate as de-
8 scribed in subsection (k)(5)” before the semi-
9 colon at the end;

10 (B) in subparagraph (E), in the matter
11 preceding clause (i), by striking “subparagraph
12 (F)” and inserting “subparagraphs (F) and
13 (G)”; and

14 (C) by adding at the end the following new
15 subparagraph:

16 “(G) APPLICATION OF KIDNEY ACQUISSI-
17 TIONS ADJUSTMENT.—The base payment
18 amount specified in subparagraph (E) for a
19 year (beginning with 2019) shall be adjusted in
20 the same manner under paragraph (5) of sub-
21 section (k) as the applicable amount is adjusted
22 under such subsection.”.

23 (c) FFS COVERAGE OF KIDNEY ACQUISITIONS.—

24 (1) IN GENERAL.—Section 1852(a)(1)(B)(i) of
25 the Social Security Act (42 U.S.C. 1395w-

1 22(a)(1)(B)(i) is amended by inserting “or coverage
2 for organ acquisitions for kidney transplants, includ-
3 ing as covered under section 1881(d),” after “hos-
4 pice care”.

5 (2) CONFORMING AMENDMENT.—Section
6 1851(i) of the Social Security Act (42 U.S.C.
7 1395w–21(i)) is amended by adding at the end the
8 following new paragraph:

9 “(3) FFS PAYMENT FOR EXPENSES FOR KID-
10 NEY ACQUISITIONS.—Paragraphs (1) and (2) do not
11 apply with respect to expenses for organ acquisitions
12 for kidney transplants described in section
13 1852(a)(1)(B)(i).”.

14 (d) EXPANDED MA EDUCATION.—Section
15 1851(d)(2)(A)(iii) of the Social Security Act (42 U.S.C.
16 1395w–21(d)(2)(A)(iii)) is amended by inserting before
17 the period at the end the following: “, including any addi-
18 tional information that individuals determined to have
19 end-stage renal disease may need to make informed deci-
20 sions with respect to such an election”.

21 (e) REPORT.—Not later than April 1, 2022, the Ad-
22 ministrators of the Centers for Medicare & Medicaid Serv-
23 ices shall submit to Congress a report on the impact of
24 the amendments made by this section on spending under
25 the traditional Medicare fee-for-service program under

1 parts A and B of title XVIII of the Social Security Act
2 as well as on spending under parts C and D of such title.
3 The report shall include an assessment of the risk adjust-
4 ment payment methodologies under such parts C and D
5 and their adequacy with respect to individuals with end-
6 stage renal disease and such recommendations as the Ad-
7 ministrator deems appropriate.

8 (f) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to plans years beginning on or
10 after January 1, 2020.