

March 19, 2010

Mr. Jonathan Blum
Director, Center for Medicare Management
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Room 314G
Washington, DC 20201

Dear Mr. Blum:

As the Centers for Medicare and Medicaid Services (CMS) finalizes the End Stage Renal Disease (ESRD) Prospective Payment System (PPS) Rule, we write to urge you to ensure that the new bundled payment system does not compromise access or the quality of care for vulnerable Medicare beneficiaries who need life-saving dialysis care. While we outline our concerns below, we would like to have a group of representatives from patient organizations meet with you and your team before April 2.

We are concerned with the Agency's proposal to include oral drugs without injectable equivalents, including calcimimetics and phosphate binders, in the bundle. Including these drugs in the bundle and requiring patients to pay a 20 percent coinsurance for them will have a direct financial impact on beneficiaries. As you know, under the current system, most dialysis patients receive these drugs through Medicare Part D or private insurance plans. The inclusion of oral drugs in the bundle will likely result in increased financial responsibility for beneficiaries, most profoundly for low income subsidy and dual-eligible patients. Furthermore, the proposed reimbursement for dialysis facilities at \$14 per treatment for providing oral drugs is significantly less than the actual cost of the drugs, estimated to be at least \$45 per treatment. Patients must be assured that CMS is absolutely precise in its calculation of the cost of these drugs, and the Agency should not act until certain that all of the data have been properly evaluated. Similarly, inclusion of additional oral drugs in the bundle should be delayed until a system is in place to monitor the impact of such change, and relevant metrics are developed and approved.

The ESRD PPS Proposed Rule also outlines the plan to include all laboratory tests provided in connection with treatment of ESRD in the bundle and require patients to pay a 20 percent coinsurance. People on dialysis currently do not have a coinsurance obligation, and Congress did not direct CMS to subject laboratory tests to a copayment. The final rule should not increase the financial burden of care for people who receive dialysis. Dialysis clinics should not have to pay for lab tests simply because blood was drawn in the unit for the convenience of the patients.

CMS correctly recognizes that facilities spend more on separately billable drugs for African American patients and are appropriately reimbursed under the current system. However, the Agency does not propose to adjust payment for race. Dialysis facilities that treat a high number of African American patients will face great financial risk, threatening the access to care for these people who receive unless there is an adjustment in the level of reimbursement to account for increased cost for the care of members of minority groups.

Finally, the Agency should not reduce payment to dialysis facilities beyond the reductions authorized by Congress. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) sanctions a 2 percent overall payment reduction. However, CMS proposes an additional 3 percent cut during the phase-in period to the bundled payment system. Additional cuts would compromise access and the quality of patient care.

Thank you for all of your work on the Proposed Rule. We look forward to working with you to ensure that the new payment system continues to improve care for people on dialysis. Please contact at Chad Lennox, Executive Director of Dialysis Patient Citizens at 202.789.6931 or clennox@dialysispatients.org to schedule a meeting or if you have any questions

Warm regards,

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