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Mr. Joel Ario
Director, Office of Health Insurance Exchanges
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Mr. Ario,

On behalf of the American Kidney Fund and the patients we serve, I am writing to request that the Center for Consumer Information and Insurance Oversight (CCIIO) consider the special needs of dialysis patients when designing the regulatory framework for health insurance exchanges under the Affordable Care Act. Dialysis patients are a fragile population who often have multiple co-morbidities. Ensuring access to coverage to meet their health care needs has always been a major focus for AKF.

Patients on dialysis are often economically vulnerable. A study by the American Society of Nephrology showed that among 585 dialysis patients who worked in the previous year, only 191 (32.6%) continued working after starting dialysis¹. The American Kidney Fund's core mission is to respond to this need by providing direct financial support to patients. As such, we are on the front lines of combating the rising cost of health insurance and working to assure access to affordable quality care. We continue to provide our patients with financial assistance to help pay for health insurance premiums and out-of-pocket costs for their care. In 2010, we provided financial assistance to more than 100,000 individuals—one out of every four U.S. dialysis patients.

Accordingly, the American Kidney Fund supports the creation of health insurance exchanges. We believe these plans will provide access to health insurance for patients who have been

¹ Kutner, Zhang, Huang, Johansen, *Depressed Mood, Usual Activity Level, and Continued Employment after Starting Dialysis*. (Clinical Journal of the American Society of Nephrology, 2010)

uninsured or underinsured in the past. We have four major concerns we would like you to consider as health insurance exchanges are structured and made operational.

1. Health exchanges should ensure that dialysis benefits are fully available in accordance with frequency directed by the patient's physician.
2. Patients should have an adequate choice of providers who are in close proximity to where the patient lives.
3. The Medicare Secondary Payer (MSP) law should be applied.
4. Health insurance exchanges should allow for premium credits and cost-sharing subsidies for individuals eligible for minimum essential coverage including Medicare.

Dialysis as an essential benefit

It is critical that the exchanges include dialysis as an essential benefit. Already there are more than half a million people diagnosed with ESRD and the number is rapidly growing. Two thirds of these patients require dialysis to survive. Most often dialysis services are needed for several hours at a time, three days per week. Health exchanges should assure that this benefit is fully available in accordance with the frequency directed by the patient's physician.

Adequate choice of providers

Given the required frequency of dialysis, it also is important that patients have an adequate choice of providers who are in close proximity to where the patient lives. As the major provider of transportation assistance to help patients get to and from dialysis care, we have seen the hardship imposed on patients trying to cover transportation costs. In fact, after requests for assistance with health insurance premiums, we receive more requests for transportation assistance than any other category of support that we provide.

Medicare Secondary Payer (MSP)

In order to maintain equality of coverage inside and outside of the exchanges, the CCIIO should ensure that the Medicare Second Payer (MSP) law is applied. Under MSP, patients will have an opportunity to keep the health plan of their choice for the statutory 30-month period before switching to Medicare. Dialysis patients who are able to retain employment and their private health insurance coverage depend on these plans because they help to minimize out-of-pocket costs and provide a wider variety of needed benefits.

Premium credits and cost sharing subsidies

The Affordable Care Act (ACA) puts in place many good benefits for patients, particularly low-income patients. For example, it provides subsidies to patients who cannot afford the full cost of plans in the exchanges. However, ACA does not allow premium credits and cost sharing subsidies for individuals eligible for minimum essential coverage, including Medicare. If not

changed or corrected, this will have a disproportionately adverse impact on dialysis patients because 90% of them are covered through Medicare. Many patients who otherwise qualify for exchange subsidies may be forced to drop their plans and shift solely into Medicare once they develop end stage renal disease. ESRD patients often have multiple co-morbidities and see multiple doctors for those conditions. Medicare does not cover the full cost of care for patients and some rely on a secondary source of insurance coverage.

The American Kidney Fund is committed to ensuring that dialysis patients have equal access to coverage options under the new Affordable Care Act. We want to ensure that exchange plans do not discriminate against patients with chronic health conditions. If this were to happen, many ESRD patients would have less comprehensive coverage than they had prior to the Affordable Care Act.

Thank you for your time and attention to this issue. We look forward to working with you to ensure that our patients who are receiving dialysis are protected as you design the regulatory framework of the health insurance exchanges.

Sincerely,



LaVarne A. Burton
President and CEO