

Join the American Kidney Fund in supporting the *Restore Protections for Dialysis Patients Act (H.R. 2199/S.1173)*

For over 40 years, end-stage renal disease (ESRD) patients on dialysis have had the option to retain their employer group health plan or COBRA coverage for up to 30 months before moving to Medicare as their primary insurance as part of the Medicare Secondary Payer (MSP) law.

Specifically, the MSP provisions protect ESRD patients from discriminatory practices by insurers that would discourage their enrollment in a private plan.

However, in a recent U.S. Supreme Court case, the MSP law was interpreted in a manner that would allow plans to get around those protections for ESRD patients and undermine Congress's intent in adopting them.

H.R. 2199/S.1173, the *Restore Protections for Dialysis Patients Act*, is bipartisan legislation that would clarify that insurance companies comply with the Medicare Secondary Payer law by specifically stating that a health plan cannot discriminate against dialysis patients by providing less dialysis services compared to services for other chronic illnesses. It will ensure that dialysis patients have access to the care they need on their employer sponsored insurance for 30 months before moving to Medicare as their primary insurance.

Background

- Congress, as part of the Social Security Amendments of 1972, enacted legislation that extended Medicare coverage to people with end-stage renal disease (ESRD) regardless of age. Medicare coverage usually starts the first day of the fourth month of dialysis treatments.
- In 1980, Congress passed legislation that made Medicare the secondary payer to certain health plans; it states that Medicare is a secondary payer to group health plans or COBRA for people eligible for, or entitled to, Medicare benefits based on ESRD during a 30-month coordination period.

How the Medicare Secondary Payer law protects ESRD patients:



Continued access to private insurance helps patients afford services such as behavioral health, dental and vision care.



Ensures health insurance companies focus on prevention and wellness of their subscribers.



The 30-month coordination period allows time for families to find insurance.



Saves taxpayers money.

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Importance of Medicare Secondary Payer Law

Savings for taxpayers

Medicare spends about \$51 billion a year on costs associated with dialysis patients. To offset some of those costs to taxpayers, Congress passed MSP. The law allows dialysis patients to stay on their private group insurance or COBRA for up to 30 months, during which time the private insurance pays for their health care. After 30 months, the patients transition to Medicare as their primary insurance and private health insurance is secondary.

Creates health insurer “Skin in the Game”

Medicare has provided important health insurance for millions of dialysis patients. The program has delivered ESRD patients from a certain death to a program that provides access to life-saving therapies. Medicare coverage, however, does provide health insurers with an opportunity to “drop” sick and expensive patients. To ensure that health insurance companies are focusing on prevention and the wellness of their subscribers, MSP requires health insurers to cover the cost of the first 30 months of dialysis as an economic incentive to keep their subscribers as healthy as possible.

Allows time for patients’ family to find insurance

80% of dialysis patients are too sick to work. The MSP law exists for people who are new to dialysis and can still work or who have access to employer insurance through a spouse or family member. When the 30-month coordination period is over (or at any time during the 30 months per the patient’s choice) the ESRD patient must transition to Medicare. Since Medicare does not cover families, the patient’s family will need to find insurance, and the coordination period gives them time to do so.

Private insurance covers more services than Medicare

Dialysis patients need health services that are not covered by Medicare, such as behavioral health, dental and vision care. These crucial services carry out-of-pocket caps through private insurance but are not covered by traditional Medicare.

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The *Restore Protections for Dialysis Patients Act* would provide clear direction to health insurance plans that they must provide needed health care services to dialysis patients. The bill will close the loophole that allows insurance plans to coerce patients into Medicare as their primary insurance early by reducing services they need. The bill will return the MSP law to working for the benefit of those it was intended to protect.



For more information about the *Restore Protections for Dialysis Patients Act* (H.R. 2199/S.1173) please contact the American Kidney Fund:

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