



December 12, 2009

Dear Senator:

Kidney Care Partners (KCP) is the broad-based organization representing all major components of the dialysis community, including doctors, nurses, patients, providers, and suppliers, all committed to the highest quality care for the 400,000 Americans who experience kidney failure. As the Senate rushes to complete action on historic health care reform, a number of late-developing legislative proposals have the potential for serious negative impacts on dialysis patients. We hope that you can review the issues outlined below.

Senator Durbin has proposed an amendment to extend coverage for immunosuppressive drugs and pays for this provision using a provision in the House bill that would include oral drugs currently obtained through ESRD beneficiaries pharmacy benefits into the new ESRD prospective payment system (PPS). KCP supports the extension of immunosuppressive drug coverage, but the kidney care community strongly objects to the inclusion of oral drugs in the ESRD bundle as a means of paying for expanded coverage. KCP instead advocates that Congress extend the Medicare secondary payer (MSP) provision by 12 months, which results in a \$1.2 billion savings to the Medicare program. The ESRD community has long advocated the proposition that dialysis patients should be able to keep their private coverage for as long as they want and opt-in to Medicare as primary payer when it is in their advantage to do so. This MSP provision would more than pay for the drug extension and would be beneficial to dialysis patients who would have the option of keeping private insurance, where appropriate.

KCP has serious concerns about the issue of including oral drugs in the new ESRD PPS. Changing the site of service by making dialysis facilities responsible for furnishing these drugs results in loss of important patient protections such as drug utilization review and creates significant operational complexities for providers and payers. KCP is filing extensive comments on the ESRD PPS proposed rule today, and we raise issues about CMS' authority in this area as well as the lack of sufficient data to appropriately calculate the proper cost associated with the inclusion of oral drugs. We also believe that this policy could result in an adverse cost sharing impact for some beneficiaries and, at a minimum, we encourage CMS to refrain from moving forward with such a policy until better data can be collected and important patient protections are adequately addressed. We believe that the amendment as proposed, while helping one group of patients, would potentially put another very vulnerable group of patients at risk.

The Senate should de-link the immunosuppressive issue from the oral drugs in the bundle issue.

The Senate is currently considering a potential Medicare buy-in for individuals under the age of 65. We are very concerned about the potential adverse impact that this would have on ESRD patients. Currently, Medicare payments are inadequate to support many dialysis centers. Facilities depend upon cross-subsidization from those individuals who have private insurance which pays rates higher than

Medicare for dialysis services. Even a small shift in patients from private payers to Medicare could have an enormously damaging effect on many dialysis centers. The average dialysis clinic treats 70 patients, 90% of which are paid for by Medicare. The remaining 10%, averaging seven patients, provide the crucial cross-subsidization to keep many dialysis centers open. We urge Congress to think more diligently about a Medicare buy-in proposal and its potential repercussions. If the Senate feels the need to act in this area, at a minimum, it must extend the current 30-month private coverage provision to 42 months. As noted above, extending MSP by 12 months also saves money to the Medicare program.

The Senate should adopt Medicare secondary payer extension, in particular, if the Senate is to adopt a Medicare buy-in proposal. Failure to do so will leave many dialysis centers economically vulnerable to the detriment of the patients who rely on access three times a week for their life-saving dialysis therapy.

We know the hour is late, but these issues are crucial to ESRD patients nationwide. We thank you in advance for considering these vital matters.

Sincerely,



Kent Thiry
Chairman
Kidney Care Partners

Affymax
AMAG Pharmaceuticals
American Kidney Fund
American Nephrology Nurses' Association
American Renal Associates, Inc.
American Society of Diagnostic and Interventional Nephrology
American Society of Nephrology
American Society of Pediatric Nephrology
Amgen
Board of Nephrology Examiners and Technology
California Dialysis Council
Centers for Dialysis Care
DaVita, Inc.
Dialysis Patient Citizens
Fresenius Medical Care North America
Fresenius Medical Care Renal Therapies Group
Genzyme
Kidney Care Council
National Association of Nephrology Technicians and Technologists
National Kidney Foundation
National Renal Administrators Association
Nephrology Nursing Certification Commission
Northwest Kidney Centers
NxStage Medical
Renal Advantage Inc.

Renal Physicians Association
Renal Support Network
Renal Ventures Management, LLC
Satellite Healthcare
U.S. Renal Care
Watson Pharma, Inc.