

August 20, 2014

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Patrick Conway, M.D.
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Dear Administrator Tavenner and Dr. Conway,

On behalf of the more than 430,000 patients who rely upon dialysis services, we are writing to urge you not to rollout the ESRD Five Star Rating Program (ESRD Five Star) in October 2014 so that the Centers for Medicare and Medicaid Services (CMS) can work with the kidney care community and the patient organizations in particular to ensure that the program will provide useful and meaningful information to patients and their loved ones. As currently envisioned, we believe ESRD Five Star will instead provide misleading information that will create confusion among patients.

Patients want and deserve accurate information about how dialysis facilities are performing. We support a five star rating system. We do not support ESRD Five Star as currently designed, however. First, the bell curve does not provide an accurate assessment of quality. Second, we have concerns about how CMS intends to use the standardize ratio measures. For these reasons, we urge CMS to delay implementation, work with patients and the community to reform the system, and roll it out only after there is agreement on how the rating system is designed and what measures are used.

I. CMS Should Use Benchmarks and Thresholds to Evaluate Facility Performance, Not a Bell Curve.

Patients want clear, concise, and accurate information about facility performance. A bell curve distorts that information. The goal of any quality program should be to incentivize attaining specific outcomes and efforts. The use of a bell curve defeats that purpose. Federal programs should strive to create incentives so that all facilities perform at the highest level. Yet, during the July National Provider Call, CMS seemed focused on ensuring that 30 percent of facilities were always ranked as low performers. CMS should not establish a methodology that creates the perception of low performance even if the performance is not actually low. If the Agency believes that the current quality initiatives do not provide sufficient distinctions among facilities, using a forced distribution to establish artificial distinctions is not the way to solve the problem.

We understand from talking with physicians that many facilities that may differ by only a point or two in terms of a composite score on Dialysis Facility Compare will be

placed into extremely different rating categories. Some may receive 4 or 5 stars, while the facilities with the slightly lower points will receive 1 or 2 stars. That is unacceptable to patients. It is simply not accurate; it is extremely misleading to take such an approach.

We understand that CMS intends to include language on the website about the methodology it is using. While we encourage patients and their loved ones always to read everything to ensure that they understand the information being presented, we also believe a clarifying statement is not enough to overcome the inherent flaws of using a bell curve. This is especially true when patients and their loved ones have experience with the myriad of other star rating programs that are not based upon a bell curve. The likelihood of confusion is significant, even if such a statement could be crafted.

A much better approach would be to establish clear benchmarks and thresholds. We understand that CMS does not want to link ESRD Five Star and the ESRD Quality Incentive Program (QIP). However, we believe that the Agency should use the ESRD QIP and its structure as an example of how total quality performance should be calculated. Our organizations strongly supported the legislation that created the ESRD QIP and worked closely with Members of Congress to ensure that it would provide meaningful information to patients and their loved ones so that they could make more informed decisions about their health care. It is unclear to us why the Agency has decided that the methodology agreed upon by the Congress, patient organizations, and health care providers as to the use of benchmarks and thresholds to acknowledge both attainment and improvement should not be the model for other ESRD quality reporting programs.

II. CMS Should Avoid Using Measures that Will Mislead Patients.

A second problem with ESRD Five Star is that it relies upon three standardized ratio measures that will mislead patients. The measures are derived from estimates that CMS acknowledges have inherent “wiggle room.” This means that the measures establish a range of performance. CMS, recognizing this, appropriately characterized a facility’s performance as “less than average, average, better than average.” Yet CMS intends to now use these same measures, which still have the built-in measurement error, to create a performance ranking.

CMS further compounds the issue by combining three measures, each with its own error, into a single ranking component. CMS should avoid using such an inaccurate approach.

III. Conclusion: CMS Should Refrain from Implementing ESRD Five Star in October, Work with the Kidney Care Community to Address the Core Problems with the Program, and Launch It in a Reasonable Timeframe.

As we have noted, we support the Agency’s effort to make facility quality performance information easier to understand for patients and their loved ones. However, a system that provides misleading information because of an interest in creating distinctions when they do not exist is inappropriate. CMS could have avoided these problems entirely if it had only worked with the kidney care community. We find it especially concerning that the Agency indicated that it is launching ESRD Five Star to help patients, yet never consulted with the patient organizations, and refuses to make any suggested modifications before the October 2014 rollout.

We would welcome the opportunity now to work with you to fix these problems. Without making the modifications to address the problems we have described in this letter, we do not support ESRD Five Star and do not believe CMS should launch this program.

We appreciate your consideration of our concerns and look forward to talking with you in more detail about ESRD Five Star.

Sincerely,



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cc: Dr. Kate Goodrich, Director, Quality Measurement and Health Assessment Group
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