



**Congress of the United States**  
**House of Representatives**

Washington, DC 20515

September 29, 2023

The Honorable Chiquita Brooks-LaSure  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Administrator Brooks-LaSure:

We are writing to urge the Centers for Medicare & Medicaid Services (CMS) to maintain continued access to life-sustaining dialysis care by establishing a forecast error adjustment for Calendar Year (CY) 2024 for Medicare beneficiaries.

Dialysis providers have been significantly impacted by the nation's healthcare workforce shortage, which the pandemic further exacerbated. These shortages show no signs of abating. Attracting and retaining the technically skilled staff necessary to deliver safe, high-quality care without disruption has resulted in dialysis providers experiencing higher labor costs.

We appreciate CMS' view that payments to dialysis providers must be predictable and understand the purpose of a PPS. However, we would like CMS to ensure Medicare payment is adequate and accurate.

In the early 2000s, Skilled Nursing Facilities (SNF) experienced payment shortfalls of the same magnitude and for the same reason that dialysis providers are today – much higher than expected increases in labor costs. CMS correctly determined that payment adequacy and accuracy must be met, and implemented a SNF PPS forecast error adjustment effective in 2004. This adjustment was based on the same policy that has long-applied to the capital update framework of the Hospital Inpatient PPS (IPPS). There is precedent for a forecast error adjustment under Medicare payment programs.

Again, we request that CMS include a forecast error adjustment in the final rule or in a subsequent interim final or supplemental rule effective for CY 2024, as recommended in our May 2023 letter to the Office of Management and Budget (OMB). The forecast error adjustment policy should follow the same framework as the one applied under the SNF PPS, which made a cumulative retrospective correction and then applied a +/- 0.5 percentage point threshold going forward. Although additional steps must be taken to improve the performance of the ESRD PPS payment adequacy, this immediate action is critical for Americans living with kidney failure.

Thank you for your attention to these important issues.

Sincerely,



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Mike Kelly  
Member of Congress



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Terri Sewell  
Member of Congress