



Support the Restore Protections for Dialysis Patients Act

In 1980, Congress made a commitment to individuals living with kidney failure to protect their access to private insurance coverage. In the Medicare Secondary Payer Act (MSPA), Congress sought to prevent plans from discouraging patients with end-stage renal disease (ESRD) from maintaining their employer group coverage.

As the MSPA matured as an important patient protection and cost-saving measure for the Medicare program, Congress authorized eligible individuals with commercial insurance coverage to keep that coverage for up to 30 months after being diagnosed with kidney failure. Many individuals with ESRD decide to maintain their private health plan because they:

- Do not want to disrupt their employer-provided coverage
- Have dependents who may also be covered by the private plan (unlike with Medicare)
- Enjoy lower out-of-pocket costs and more robust coverage benefits, such as dental care, under their private plan

However, in the *Marietta v. DaVita* decision in 2022, the U.S. Supreme Court interpreted the Medicare Secondary Payer Act (MSPA) in a manner that removed the previous Congressional prohibition on plans discriminating against individuals with kidney failure who require dialysis.

This has resulted in little incentive for private plans to manage earlier stages of kidney disease and invest in healthcare services to delay the onset of kidney failure. While some plans do provide these services, the majority do not. Often, patients are not aware that they have chronic kidney disease until it advances to kidney failure, and they are forced to seek care at a hospital emergency department and receive dialysis via a catheter.

To ensure patient choice in insurance coverage, bipartisan members of Congress have introduced the **Restore Protections for Dialysis Patients Act ([H.R. 2199/S. 1173](#))**. This legislation would prevent discrimination against patients with kidney failure, as Congress originally sought under the MSPA, and ensure that patients can continue to access the life-sustaining dialysis care they need on their private insurance throughout the statutory 30-month coordination period.

Congress Can Reinstate the Protections It Provided to Individuals with Kidney Failure by Passing the Restore Act ([H.R. 2199/S. 1173](#))