



National
Kidney
Foundation®

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September 13, 2018

The Honorable Edmund G. Brown
Governor of California
State Capitol, Suite 1173
Sacramento, CA 95814

Re: SB 1156, Health care service plans and health insurance: 3rd-party payments.

Dear Governor Brown:

The National Kidney Foundation remains concerned that dialysis patients will lose access to charitable premium assistance and choice in insurance coverage as a result of SB 1156. In our letter to the Assembly on August 8, we encouraged assembly members to work with the American Kidney Fund (AKF) to ensure that they would be able to continue to aid kidney patients in California as we are aware AKF believes that SB 1156 conflicts with their ability to comply with the Federal Office of the Inspector General (OIG) Advisory Opinion 97-1, and otherwise limits their ability to provide assistance.

Given that SB 1156 requires that insurers be notified of charitable premium assistance being provided, we are concerned that insurers will use this to deny or delay accepting payments from organizations that provide charitable premium assistance. Current law already provides a loophole that permits insurers to deny accepting these payments. The consequence is that ESRD patients needing assistance are discriminated against due to their pre-existing condition as insurers are able to drop their coverage for non-payment. The National Kidney Foundation has a long-standing position that insurers should be required to accept charitable premium assistance payments. Kidney care in California could worsen if all ESRD patients in the state lost access to private coverage. This would essentially absolve insurers from any accountability to improve outcomes for kidney patients.

Thirty million American adults have chronic kidney disease yet only 10% are aware they have it. Most patients don't find out until it is too late to intervene to slow progression and properly prepare for renal replacement therapy options. Allowing insurance companies to reject ESRD patients further diminishes incentives or accountability to cover benefits or institute programs

that help patients with CKD get diagnosed early and access the right care needed to slow their progression of CKD or receive a pre-emptive transplant.

Passage of the Medicare ESRD program in 1972 was a lifesaving change in health policy for Americans with permanent kidney failure. Prior to the benefit most people with kidney failure died having never received dialysis treatment. For those who are eligible, Medicare continues to be the coverage that most ESRD patients choose today. However, there are many reasons for which a patient may prefer private insurance coverage, including coverage offered through Covered California. Examples of these reasons are:

- the inability to obtain a Medigap policy
- lower costs of private coverage because of caps on out-of-pocket expenses for combined medical services and prescription drugs and the ability to benefit from family coverage and family caps
- access to practitioners that do not accept Medicare (including many mental health practitioners)
- access to benefits that are not covered by Medicare (vision, transportation, hearing aids, etc.)

For some patients enrolling in Medicare may cause them to face difficulty in affording the health care services they need because California specifically excludes ESRD patients who are under age 65 from enrolling in Medigap coverage. This means that those Medicare beneficiaries not dually eligible for MediCal are subject to paying for all Medicare premiums and deductibles in addition to a 20% coinsurance for each dialysis treatment, out-patient office visit, lab testing, outpatient procedures, immunosuppressive medications, and non-ESRD related injectable medications. On average a dialysis patient can incur approximately \$7,000 or more annually in out-of-pocket expenses just on coinsurance alone for dialysis.¹

In addition, Medicare does not cover benefits that patients may have under private insurance and Medicare Advantage (MA) plans are not available as an option for dialysis patients unless they were already enrolled in MA before progressing to ESRD, receiving retiree benefits under an MA plan and are grandfathered into that specific plan, or enrolled in a Special Needs Plan (SNP).

¹ Methodology: Assumes Medicare reimbursement rate of \$230.39 per dialysis treatment (2016 final unadjusted base rate) and that the patient receives 156 treatments per year in an out-patient dialysis facility.

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The National Kidney Foundation's vision is to prevent kidney disease where possible, ensure that the 30 million Americans with CKD receive an early diagnosis and treatment to slow or stop their progression, and for those that will progress to ESRD we promote kidney transplantation as the first option for renal replacement therapy. Ultimately, we know that even under the best circumstances the availability of kidneys does not meet the current need and not all patients are eligible for a transplant, so tens of thousands of California patients will still need dialysis. All kidney patients should be able to receive and afford the best comprehensive care and insurance coverage that meets their individual needs.

We urge you to please protect kidney patients and ensure they continue to have access to charitable premium assistance and that insurance companies are required to accept this assistance.

Sincerely,
Kevin Longino

Kevin Longino
CEO and Kidney Transplant Patient