



National
Kidney
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February 1, 2016

The Honorable Dean Cameron
Director
Department of Insurance
700 West State Street, P.O. Box 83720
Boise, ID 83720-0043
Via Electronic Submission

Re: Discriminatory plan designs for end-stage renal disease patients

Dear Director Cameron,

It has been brought to our attention that Regence BlueShield of Idaho and BridgeSpan have developed discriminatory policies based solely on an individual's status as having End-Stage Renal Disease (ESRD). The National Kidney Foundation (NKF) is concerned that these health plans operating in the state of Idaho are misleading and discriminating against patients with ESRD.

NKF is America's largest and oldest health organization dedicated to the awareness, prevention, and treatment of kidney disease for hundreds of thousands of healthcare professionals, millions of patients and their families, and tens of millions of people at risk. NKF has local division and affiliate offices serving our constituents throughout the U.S., including a Utah affiliate serving the approximately 1,304 dialysis patients residing in Idaho.

Regence BlueShield and BridgeSpan are penalizing members who do not enroll in Medicare by using non-negotiated payments rates for dialysis providers and subjecting patients to balance billing – costs, which will not apply to the patient's out-of-pocket maximum. These plans state that the outpatient dialysis benefit for members with ESRD is reduced after the first treatment period from standard commercial rates to a limit capped at 100-125% of the Medicare reimbursement level, leaving the patient responsible for the remaining provider charges.

While most individuals are eligible to enroll in Medicare due to ESRD, regardless of age, they are not required to do so. In August, the Centers for Medicare & Medicaid Services clarified this right for ESRD patients in its frequently asked questions document, which can be found at <http://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Overview1.html>. For group health plans, the Social Security Act, Medicare Secondary

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Provisions allows ESRD patients to keep their private health insurance and requires the private plan to pay primary for at least for 30 months. ESRD patients do not have to enroll in Medicare during this time frame and instead can enroll in Medicare after 30 months to avoid having to pay Medicare premiums during a time when the patient is unlikely to receive any additional benefit from Medicare coverage. For individual marketplace plans, ESRD patients who enroll in Medicare will lose tax credits and subsidies and Medicare can become primary to individual plans after three months, which limits most, if not all, of the benefit patients would have under the marketplace plan.

There are many reasons patients may wish to keep their private insurance and forgo Medicare enrollment. Some of these reasons include lower copays/coinsurance versus the typical 20% under Medicare Part B, limits on out-of-pocket costs not offered under Medicare, potentially having to switch healthcare providers, desire to maintain coverage of all family members under one plan, and coverage of additional benefits not covered by Medicare.

Regence BlueShield of Idaho has also informed customers on dialysis for ESRD that they will no longer accept premium payments from third parties – such as the American Kidney Fund, whether directly from a non-profit or through the patient. Furthermore, customers reporting rejected payments were only permitted two weeks to arrange alternative payments.

NKF urges you to notify Regence, BridgeSpan, and other insurers that they must accept third party payments from non-profit charitable organizations that existed prior to the enactment of the ACA, have been favorably reviewed by the Department of Health and Human Services' Office of the Inspector General, and offers assistance for the purchase of the health insurance option that patients determine best meets their needs.

These coverage policies threaten the continuity of care of patients and eliminate their right to choose the health insurance option that is best for them.

NKF respectfully requests your division to prohibit these actions and to broadly clarify that plans may not implement benefit designs that single out ESRD patients.

Sincerely,

Tonya L. Saffer

Tonya L. Saffer, MPH
Senior Health Policy Director