



December 14, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi, Majority Leader Schumer, Leader McConnell, and Leader McCarthy:

On behalf of the Renal Healthcare Association (RHA), I write today to urge Congress to take action to protect access for the vulnerable Medicare beneficiaries that rely on life-sustaining dialysis treatments by addressing the detrimental policies finalized in the CY 2023 End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) rule and extending the legislative prohibition of including oral-only drugs in the ESRD payment bundle. Insufficient ESRD PPS rates and the inclusion of oral-only drugs in the ESRD payment bundle will be, simply put, disastrous for our industry and for the patients we care for. Without relief, the Centers for Medicare and Medicaid Services' (CMS) rules will threaten the ability of the dialysis provider community to safely care for patients and severely curb access to life-sustaining care for adult and pediatric patients with severe kidney disease on dialysis.

RHA is a voluntary organization representing dialysis providers throughout the United States, who provide life-sustaining dialysis services to nearly 135,000 Medicare beneficiaries. Our membership includes primarily small and independent for-profit and not-for-profit providers serving patients in urban, rural, and suburban areas in both free-standing and hospital-based facilities.

Congressional intervention is desperately needed to avoid catastrophic cuts that pose especially significant threats to the future survival of many independent dialysis providers. A recent study conducted by Prima Health Analytics examined the Medicare renal cost reports of 23-25 percent of all Medicare-certified free-standing dialysis facilities and found that they have accumulated \$1.7 billion in losses over the last three years.¹ On average facilities lost 42 percent of operating expenses in excess of revenues, totaling \$320,000 per facility per year.² Of facilities who reported losses, over half reported losses for at least two years of the three-year period analyzed.³

RHA appreciates the financial resources that Congress has authorized for providers treating patients on the front lines of the pandemic. Unfortunately, these additional funds have been quickly exhausted due to significant cost increases in three major categories: labor expenses, COVID-19 pandemic response,

¹ Analysis of 2017-2021 Medicare Cost Reports conducted by Prima Health Analytics, Weymouth, MA. Prepared for RHA in July 2022.

² *Id.*

³ *Id.*

and home dialysis equipment and supplies. Given the public health crisis that continues throughout the U.S. and the severe staffing shortages facing providers, healthcare providers need adequate funding to continue delivering safe and high-quality dialysis treatment to adults and pediatric patients with ESRD. Between 2017-2021, direct patient care labor costs per dialysis treatment for all dialysis facilities rose by 10.4 percent, and supply costs per treatment across all dialysis modalities rose by an astonishing 16.2 percent.⁴ These additional costs borne by RHA member facilities are not appropriately accounted for in the ESRD PPS.

PPS rates impact RHA members' entire programs—from labor to supplies to utilities and rent. A mere 3 percent increase to the base rate for CY 2023 is woefully inadequate in this time of economic and staffing instability. With absent action from Congress, access to care and the quality of care for individuals relying on Medicare for their dialysis services will be jeopardized. Some RHA members may have to reduce or cap medications because they are too expensive. They may even have to close their home dialysis programs entirely because the CMS reimbursement is too low to cover basic costs. As such, to protect access to care for some of the most vulnerable Medicare beneficiaries, RHA respectfully and urgently requests that Congress take action to increase the ESRD PPS payment rates.

Since the creation of the ESRD PPS, Congress has taken action to protect patient access to oral-only drugs through Medicare Part D. RHA requests that Congress once again intervene to extend the prohibition on the inclusion of oral-only drugs into the ESRD bundle. If Congress fails to act now, CMS will move forward with including oral-only drugs in the bundle, increasing burden on providers and jeopardizing beneficiary access to the drugs they need. RHA members are not pharmacies and if oral-only drugs were included in the ESRD bundle, "dispensing" medication may be logistically and legally challenging. RHA members are simply not equipped to store, dispense, or advise on medications. We believe that maintaining the exclusion is the best way to protect access to care and ensure our vulnerable patients are receiving the care they need.

The Renal Healthcare Association very much appreciates your consideration of our urgent request. We stand ready to work with you as the PHE continues to ensure that vulnerable ESRD patients continue to receive high-quality dialysis treatment. If you have any questions, please do not hesitate to call RHA Executive Director, Marc Chow, at (831) 234-1299.

Sincerely,



Caprice Vanderkolk, MS, RN, BC-NE
RHA President

⁴ *Id.*