



# CDC Report

Board Meeting ~ Oakland

October 2007

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## • LEGISLATIVE REPORT

Kristi Foy delivered the legislative report.

California has reached the end of the Legislative session for this year. This was the first of a 2-year session. Kristi reported that January 2008 will be busy with bills that did not pass during this session being moved forward for the second year. There was a 52-day delay in passing the budget this year, making it the State's third longest budget impasse. The budget was signed on 8-24-2007. Additionally, two extraordinary sessions were called by the Governor, one on water and one on health care reform. At this time, no legislation has resulted on either issue. It appears that neither will be resolved in the extraordinary session.

Kristi distributed the Legislative Status Report as well as Legislative Highlights for 2007. She reviewed the Legislative Highlights as follows:

*AB 214* is the bill sponsored by CDC to resolve issues around dialysis in Skilled Nursing Facilities (SNF). The Department of Public Health drafted an All Facilities Letter (AFL) to resolve the issue, but Kristi informed the Board that if the AFL does not adequately address the issue, *AB 214* can be reintroduced during the next legislative session.

*AB 237* would increase the appropriate from the General Fund from its current \$2 billion to \$4 billion to cover payment of providers during a budget deadlock. This bill is still alive for the second session of the 2- year cycle, but is

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opposed by the Administration.

*AB 74 and AB 871* address diabetes and hypertension but have been set aside due to the cost. They will be moving early in the 2008 legislative year and the CDC Board is in support of both. AB 871 is being introduced by Assemblyman Davis from the Downtown L.A. area. He is new and it would be good to have him out to visit a dialysis clinic and explain the connection between hypertension and dialysis. Karen Dyer suggested that it might be a good idea to introduce him to Dr. Roberto Vargas from RAND who works with the underserved population in the area and is also connected to the ESRD community. Marc Chow said that, having worked at RAND, he knows Dr. Vargas. Perhaps he will be able to make that connection.

A copy of the Legislative Report may be viewed on the CDC web site.

## • REGULATORY REPORT

Karen Dyer delivered the regulatory report.

*Dialysis in SNF* Michael Arnold contacted Scott Vivona with the Department of Public Health and requested that he attend the October Board meeting, but Mr. Vivona was unable to attend. He stated that perhaps he would be able to attend a Board Meeting after the first of the year. Karen requested that those attending the meeting develop a list of questions for Mr. Vivona regarding the dialysis in SNF question. The list of questions will be forwarded to Michael Arnold so that he can forward them to Mr. Vivona. In this way, Mr. Vivona will be prepared to answer the Board's questions when he is able to attend. The questions developed are as follows:

1. Is it possible to assign a dedicated space in a SNF for dialysis, e.g. a room in which residents would be able to be dialyzed, under the conditions of the recent AFL?
2. Will the Department issue clear and concise interpretive guidelines for SNF use which are separate from those used by outpatient ESRD facilities?
3. What has the response to the AFL by SNFs been to date?
4. Has the Department determined yet how the survey process in the SNF offering dialysis for its residents will be handled?

*Draft Interpretive Guidelines for new Conditions for Coverage.* Karen Dyer reviewed the responses by CMS to the CDC recommendations for change in the proposed regulatory language from 2005. Most of the recommendations were addressed under the interpretive guidelines section. The Board members present did not

feel that any of these issues required additional comment. The one issue that the Board did feel the need to comment upon was tag #505: anemia. The Board felt that since K/DOQI guidelines change relatively frequently, it is inappropriate to include specific outcome guidelines in the interpretive guidelines. The Board rather felt that it would be appropriate to make a statement regarding compliance with K/DOQI or current national consensus standards for anemia management by reference. Ms. Dyer will respond to CMS on this issue prior to the last date for comment.

## • **NRAA REPORT**

Cindy LaMunyon and Marc Chow delivered a joint report. Cindy stated that the 30th Annual Fall Conference at Huntington Beach was a success. Marc reported that the overturn of the presidential veto of the SCHIP was 13 votes short in the House and so will not go to the Senate. The Senate will "fix" the Medicare 9.9% cut for physicians by early November in the ESRD provisions of the Medicare bill.

*Medicare Secondary Payer (MSP).* Some employer groups are voicing opposition to the extension of the MSP period for ESRD. KCP and the NRAA feel it is very important for the community to respond to Congress in support of the 12-month extension of the MSP that was proposed in the original House CHAMP Act. Letters in support will be sent soon.

## • **KIDNEY CARE PARTNERS REPORT (KCP)**

Marc Chow reported the following on the upcoming "Reimbursement Bundling" proposal: It is to start in 2010; there will be no demo or validation of the manner in which it will be rolled out; it does not contain a reimbursement update method. KCP is focusing presenting options to remedy these perceived shortcomings. They will present setting a date for implementation, but including a demo to take place 12 to 18 months in advance of final implementation. Results of such a demo should be used to improve the bundling method, not stall it. Other issues discussed are if labs will be included or not, it appears that the 13 composite lab tests are in, possible this will be expanded but it appears that 'special tests' will be kept out. Labs are currently 3% of ESRD cost, and keeping them in the bundle would be very detrimental to the bottom line of small providers. They are waiting to see what the Senate version looks like, are assuming it will look very similar to the House version. The progress on this bill may be slow due to 2008 election campaigns or Democrats may want to pass legislation to show action. More information will be available in November. There is a push to put whatever savings are seen from extending MSP back into the ESRD program or facility side. Dr. Peter Crooks will attend a meeting October 22 in Washington D.C. as a member of the MedPAC advisory panel. The

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original agenda was concerning Bundling, but the recent agenda lists the topics of Anemia, Nutrition and Care Coordination. Peter will report back at the November meeting. Peter also reported on the current OIG Work Plan - California is one of their 'hot spots' for 2008.

## • NETWORK REPORT

Allison Kregness, Director of Operations for Network #17 delivered the Network Report. She began by introducing Noel DeOcampo, the new CQI coordinator for the Network.

- Ms. Kregness stated that last January the Network and CDC had a joint meeting that was quite successful. She asked if CDC would be interested in having another joint meeting this next year and the Board agreed that that would be a good idea. CDC meets in Oakland in October of 2008 but the Network would like to be able to increase the number of attendees from the 100 limit of last year. Mike Paget reported that the Park Plaza Hotel can only accommodate 100. The Hilton can accommodate a larger number but they are unwilling to commit to space until six months prior to the event, so Mike will not be able to get a commitment from them prior to April, 2008. Mike will work with Allison to set the meeting up and will report back to the Board.
- Allison stated that the Network would be happy to allow CDC to utilize their "fax blast" capability. All facilities, including independents, are on their list and they currently do the faxing to all facilities for the Northern and Southern California Kidney Foundations.
- Fistula cannulation videos are now available through the Network.
- CROWN Web will launch in February 2008. The 2008 Clinical Performance Measures (CPM) collection for independent facilities will be collected in January-March 2009 via CROWN Web.

## • MEDICARE / MED-CAL REPORT

**Medicare** - Cindy laMunyon reported on the Medicare ESA policy that will take effect January 1, 2008 with concerns that these policies contradict each other. Even CMS experts around the country disagree on how to implement the policies. The GS modifier probably needs to be applied to each line, not just once on the claim. The instructions state to report the HGB from the prior month, i.e., September's value for the October claim. However, it is believed that CMS' intent is to use the same month's HGB for the claim, but this is NOT stated in the policy. For EPO used at home, the Plan of Care needs to be billed for, not what is dispensed. DaVita has created a list of Practical Examples and submitted to CMS. CMS has responded that the FI should comment on this issue. An Open Door Forum

has been requested to discuss these issues, and one may be scheduled. Documenting the route of administration is still optional (JB,JA codes) but when billing goes to line item, these may be required. The wastage modifier (JW) does not apply. It has been the practice to give an extra month's supply to Home Patients, and the EM modifier should be able to be used for this instance. Cindy gave an update on the MAC J5 transition to Wisconsin's Physician Services. This transition should be complete by September 2008. The first pilot transition was wrought with problems so CMS has backed off their aggressive implementation schedule to be more thoughtful as this process rolls out.

**Medi-Cal** - Cindy LaMunyon had nothing new to report Medi-Cal issues. Mai Masri of Amgen reported that she is looking for someone to help her fill out a clean Medi-Cal claim so she can serve as a resource to the Provider Community as she gets calls everyday with questions on this process. She was advised to contact Dr. Yamada, but her appears to be very busy these days. She will analyze exactly what the problems are and enlist CDC's help if it is found to be a global problem.

## • PROGRAM REPORT

Mary Brattich reported that it is time to start planning for the Annual Conference in Palm Springs, April 2008. Any recommendations of speakers or topics are welcomed. Please send email them to us at: [mail@caldialysis.org](mailto:mail@caldialysis.org) Our meeting will immediately follow the NRAA Annual Spring Meeting again this year (as in 2006) and we hope that will increase attendance for both meetings.

Mike Paget has been approached by LaQuinta Resort & Club in La Quinta which is located southeast of Palm Springs. Mike and Mary will explore the possibility of holding the conference there in 2009.

## • OTHER BUSINESS

*Date and Location of 2008 Board Meetings:* The proposed schedule was reviewed and the first six months were approved by Board action. The remainder of the year will be approved in early 2008 depending on plans to collaborate with Network 17 on a Fall Educational Meeting. The listing can be found on our website at: [http://www.caldialysis.org/Board\\_Meetings.htm](http://www.caldialysis.org/Board_Meetings.htm)

## • NEXT OPEN BOARD MEETING

November 16, 2007 ~ Los Angeles

For more information and a registration form, please visit our web site at: [www.caldialysis.org/next\\_meeting.htm](http://www.caldialysis.org/next_meeting.htm)