

## MEMORANDUM

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**To:** Kidney Care Partners  
**From:** Patton Boggs LLP  
**Date:** October 26, 2009  
**Subject:** Highlights of CMS ESRD PPS Town Hall Meeting

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The Centers for Medicare and Medicaid Services (CMS) convened an ESRD PPS Town Hall meeting on Friday, October 23, 2009.

Jonathan Blum, Director, Center for Medicare Management, welcomed the meeting attendees and stated that he looked forward to hearing the speakers' comments. He noted that the purpose of the meeting was to hear from the members of the kidney community regarding the ESRD PPS Proposed Rule and acknowledged that he has already received verbal comments from many in the room. He reminded everyone that although CMS staff hears verbal comments, in order for the Agency to respond, CMS must receive comments regarding the ESRD PPS in writing by November 16, 2009. He also remarked that he has received many requests for an extension to the comment period and is still considering these requests; however, he also acknowledged that the Agency must implement the payment system by January 1, 2011, which leaves little time for preparation and execution of the ESRD PPS.

Dr. Barry Straube, Chief Clinical Officer and Director, Office of Clinical Standards & Quality, noted that variations exist in quality of care, utilization, and ultimately the cost of ESRD services. He highlighted that with a dwindling Medicare Trust Fund and a troubled economy, ESRD program reform is necessary to ensure that beneficiaries will continue to be able to rely on the entitlement program. Dr. Straube noted that in the next year or two the community will discuss the Quality Incentive Program (QIP). He expressed that CMS is interested in avoiding unintended consequences that result from the bundled payment system and encouraged stakeholders to share with the Agency what changes to the proposed PPS should be considered.

The following stakeholders provided feedback to Agency staff regarding the proposed rule and suggested modifications:

- Mr. Bill Peckham, Dialysis patient for 19 years
- Mr. Shad Ireland, Shad Ireland Foundation
- Mr. Dolph Chianchiano, National Kidney Foundation

- Mr. Paul Conway, American Association of Kidney Patients
- Ms. Kathleen LeBeau, Renal Support Network
- Mr. Chad Lennox, Dialysis Patient Citizens
- Mr. Richard Berkowitz, NxStage Users
- Ms. LaVerne Burton, American Kidney Fund
- Mr. Larry Emerson, National Renal Administrators Association
- Mr. Paul Smedberg, American Society of Nephrology
- Mr. Thomas Weinberg, Kidney Care Council
- Dr. Mahesh Krishnan, DaVita
- Dr. Allen Nissenson, Kidney Care Partners
- Dr. Christopher Blagg, Northwest Kidney Centers
- Mr. Joe Turk, NxStage Medical, Inc.
- Mrs. Connie Anderson, Northwest Kidney Centers
- Mrs. Diane Crafton Wheeling Renal Care, LLC
- Ms. Dorian Schatell, Medical Education Institute
- Mary T. Petruso, Nationwide Laboratory Services
- Mr. Paul Beyer, Satellite Laboratory Services
- Ms. Sara Frolich, Genzyme Corporation
- Mr. Orestes Lugo, Renal CarePartners
- Mr. Eric Messner, Cytochroma
- Mr. Peter Nevin, Koffel Medical Supply, Inc.

The speakers' comments reflected the following themes:

- Concerns regarding inclusion of oral drugs in the bundle and the inadequate proposed reimbursement
- Request that CMS specifically define the labs to include in the bundle and concerns regarding the inadequate reimbursement
- Concerns regarding adequate reimbursement for home dialysis training
  - Home dialysis training should be outside the bundle
  - Reimbursement should not be tied to the new patient adjustor
  - Home dialysis training is a non-routine service
- Praise that CMS proposed a per treatment payment and to allow more than three treatments per week if medically necessary
- Concerns regarding case-mix adjustors
  - CMS proposes too many
  - CMS should implement a race/ethnicity adjustor
  - The Agency should only implement age, gender, BMI, BSA, and race/ethnicity case-mix adjustors
  - A home dialysis training adjustor is necessary

- Burden of increased co-payments on patient

The speakers also discussed other proposed policies that the Agency should reconsider and made the following recommendations:

- Define low-volume facilities as facilities that provide services for less than 1% of patients (Peckham, dialysis patient)
- Establish a mechanism to monitor quality of care, establish a trigger and plan to intervene as necessary and/or delay inclusion of Part D until monitoring of mineral metabolism and bone is possible (Chianchiano, National Kidney Foundation)
- Develop quality measures related to patient satisfaction and quality of life (Conway, American Association of Kidney Patients)
- Consider establishing other quality areas, including iron management, AV access, hospitalizations, fluid overload, and mortality (Berkowitz, NxStage Users)
- Eliminate the transition adjustor, which reduces payment and is inconsistent with legislative intent, which negates the benefit of having a transition (Weinberg, Kidney Care Council)
- Do not implement PD adequacy measures until more data collected (Anderson, Northwest Kidney Centers)
- Do not eliminate wage index floor (Crafton, Wheeling Renal Care, LLC)
- Consider eliminating requirement for medical justification to provide additional treatments (Schatell, Medical Education Institute)
- Do not eliminate Method II (Lugo, Renal CarePartners and Nevin, Koffel Medical Supply, Inc.)
- Include mineral metabolism and bone measures in quality program (Messner, Cytochroma)
- Maintain the proposal to include oral drugs in the bundle and include any new oral drug with similar indications (Messner, Cytochroma)

Mr. Blum relayed that the speakers highlighted concerns that the Agency is familiar with as well as new areas for consideration. He stated that CMS takes all comments seriously. He reminded the presenters that the public statements are not considered as official comments and encouraged all stakeholders to submit a comment letter.

A recorded audio version will be available on Monday, October 26 – Thursday, October 29. Dial 1-800-642-1687/ ID 33239635.