National Kidney Foundation

June 29, 2011

Mr. Steve Larsen, Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Larsen:

As President of the National Kidney Foundation (NKF), I would like to express my gratitude for the open discussion between CCIIO staff and delegates from 6 national kidney patient advocacy groups during a meeting in Bethesda on June 22, 2011. NKF membership includes 50,000 Americans with chronic kidney disease (CKD) and the health care professionals who serve them .The goal of the NKF is to empower patients to play a significant role in the decisions that affect the quality of their care and their health care outcomes. I also appreciate the opportunity to emphasize the suggestions that our groups made last week with regard to the regulatory framework for the health insurance that will be available through state health insurance exchanges and for the exchanges themselves.

When individuals experience irreversible kidney failure or End Stage Renal Disease (ESRD), they need regular dialysis treatments (generally 3 times a week, 52 weeks a year), or a kidney transplant, to survive. Congress recognized the life-saving benefit of ESRD therapy when it legislated an amendment to the Social Security Act in 1972. Coverage for dialysis and kidney transplantation is also standard in employer group health plans. As a result, we maintain that coverage for dialysis and kidney transplantation should be part of the essential benefit package that will be offered through the exchanges and that there be no arbitrary utilization targets on such coverage, e.g. number of treatments per year or treatment limited to a defined period of time. Moreover, we urge that the exchanges enforce adequacy of provider networks for ESRD services. With an average of 13 clinic appointments a month, each lasting up to four hours, it is essential that individuals with ESRD can access care within a reasonable travel time from their homes.

Second, to maintain parity between coverage inside and outside of the exchanges, the CCIIO should ensure consistent application of the Medicare Secondary Payer (MSP) law. Since members of private health plans often have lower out-of-pocket costs and wider choice in providers than Medicare beneficiaries, individuals with ESRD should have the right to keep the health plan of their choice, including insurance purchased through an exchange, for 30 months before switching to Medicare.

Finally, the CCIIO should ensure that economically-disadvantaged individuals with ESRD can qualify for premium credits and cost-sharing subsidies when purchasing health insurance through an exchange, even though they might be eligible to enroll in Medicare based upon their kidney failure. If an individual is eligible to enroll in Medicare but has not filed an application for Medicare benefits, he/she is not "eligible for coverage" (and not entitled to Medicare Part A benefits) and should be permitted to receive exchange subsidies.

Thank you very much for your consideration of these vitally important protections for kidney patients. Please feel free to call upon us if we can assist in the regulatory framework you are constructing.

Sincerely,

Lynda A. Szczech, MD
President
National Kidney Foundation, Inc.

cc: Donald M. Berwick, MD
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Marilyn B. Tavenner