



# INSURANCE DIVISION

## MEMORANDUM

November 4, 2015

To: Interested Parties

From: The Oregon Insurance Division

Subject: Summary of public comment relating to kidney dialysis benefit and End Stage Renal Disease coverage in the commercial health benefit plan market

The Oregon Insurance Division (Division) was recently approached by stakeholder groups regarding the use of Medicare-approved amount caps and Medicare enrollment for End Stage Renal Disease (ESRD) patients in the commercial health benefit plan market. In an effort to collect additional information on the topic the Division solicited public comment during a public meeting on Friday, October 23, 2015 and via email through 5 p.m. Tuesday, October 27, 2015. Eighteen individuals testified during the October 23<sup>rd</sup> meeting and more than thirty written comments were submitted to the Division.

In addition to general comments on dialysis benefit structure, some commenters provided kidney disease and dialysis education. One commenter, a renal social worker, indicated that patients range in age from 20 years old to 91 years old. Commenters explained that dialysis patients receive dialysis three times each week for 3 to 5 hours per dialysis event. Two commenters explained that home-based dialysis may be an option for some patients when it is available. One commenter explained that peritoneal dialysis is available and offers patients more flexibility than traditional hemodialysis. Finally, one commenter explained that transplant wait times can be up to five years.

The comments summarized below fall into six categories: financial impact; consumer choice; informed decision making; provider access and continuity of care; impacts on family; and concerns regarding unsustainable practices.

### **Financial impact**

The strongest theme voiced by commenters was the financial impact on dialysis patients and families. Many commenters noted that enrolling in Medicare meant losing access to commercial coverage protections which results in higher maximum out-of-pocket costs and higher coinsurance rates which places “significant financial burden” on patients. Commenters also highlighted general costs including travel to dialysis clinics and loss of employment based income. One commenter, a dietitian, noted that kidney dialysis patients face increased cost due to

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the need to adhere to a strict renal diet high in protein and low in phosphorus and sodium. There were a number of general concerns about the premium costs associated with enrollment in both Medicare and a commercial health benefit plan. Four commenters noted that provider contracting disputes may play a key role in cost impact on consumers. One commenter who is a provider noted a disparity in payment for dialysis treatment between commercial insurers and Medicare. Finally, two commenters urged insurers and providers to put aside differences and work toward an agreement favorable to the consumer.

### **Consumer choice**

Consumers and provider representatives highlighted concerns about removing patient choice in the insurance market. Generally, commenters expressed feelings that commercial insurers were pressuring members to enroll in Medicare or terminate commercial coverage. Commenters asked for freedom to make decisions about their own insurance needs. Several commenters mentioned Medicare is an optional benefit and expressed concern for individuals ineligible for Medicare. One commenter provided statistics indicating that generally dialysis patients are more satisfied with commercial plans than those enrolled in Medicare. Commenters generally expressed more confidence in commercial market coverage than coverage provided by Medicare and felt that commercial coverage may be a better choice for some dialysis patients. Finally, one commenter noted that commercial insurance provides more medical resources for consumers.

### **Informed decision making**

Nine commenters expressed concern over the inability to make informed decisions due to pressure and misinformation from the insurer community; unclear or “hidden” contract language; and the stress associated with navigating dialysis needs with changing insurance benefits. Patient advocates, who referred to themselves as renal social workers, provided public comment about their work educating and assisting dialysis patients. Commenters highlighted concerns about the stress of managing kidney disease paired with deciphering benefits and making financial decisions about insurance coverage. One commenter noted that patients were not made aware of the benefit changes prior to implementation. Finally, one commenter highlighted an insurer’s program benefits for dialysis patients including coordination of care with licensed nurses and member outreach.

### **Provider access and continuity of care**

Four commenters expressed concern that mid-treatment insurance changes could disrupt care. One commenter noted that they have faced difficulties finding providers currently accepting Medicare patients and obtaining coverage of prescription medications. Seven commenters noted that patients may be removed from transplant waiting lists if insurance coverage changes or patients may face difficulties finding transplant facilities that perform transplants for Medicare enrollees. One commenter noted that the provider-patient relationship is important for kidney dialysis and ESRD patients. Finally, commenters noted that mid-treatment insurer changes lead to increased stress on dialysis patients and their families.

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### **Dialysis care and the impact on family**

Six commenters expressed concerns relating to impact on families due to financial and time commitments of dialysis care. Three commenters provided personal stories of dialysis patients struggling to make healthcare decisions based on finances and one commenter shared that they had moved cross-country to be closer to family during their treatments. Several commenters expressed concern about access to insurance for family members without ESRD who are ineligible for Medicare. Additionally, commenters noted that time commitments related to dialysis may make employment difficult for some dialysis patients and their families. Finally, one commenter indicated that as a small business owner they would not be able to provide Medicare premium assistance for employees not enrolled in commercial health benefit plan coverage.

### **Unsustainable practices**

Five commenters addressed issues relating to increased dialysis care costs, provider contracting disputes, and concern over the growing dominance of two providers in the Oregon dialysis care market. Two commenters indicated that dialysis costs are being charged at unsustainable rates and that one dialysis provider has been uncooperative in contracting discussions. One commenter indicated that some insurers may be using patient care as a method of solving rate concerns. Finally, two commenters indicated insurers and dialysis providers should work together to negotiate contracts without targeting patient benefits.

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