

February 2, 2011

The Honorable John Boehner  
Speaker of the House of Representatives  
Office of the Speaker  
H-232 The Capitol  
Washington D.C. 20515  
Phone: (202) 225-0600  
Fax: (202) 225-5117

Dear Mr. Speaker:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

Congress established the transition adjustment to ensure budget neutrality for Medicare's new ESRD Prospective Payment System (PPS), while allowing dialysis facilities the option to transition into the new payment system during a four-year period. CMS has acknowledged that the adjustment was not intended to achieve savings beyond what was already provided in the legislation. While we appreciate that the Agency is willing to fix this during the next rulemaking cycle, we are concerned waiting until 2012 could create a hardship for many dialysis facilities that depend upon timely and accurate Medicare payments to provide high-quality care.

As we noted in our earlier letter, CMS estimated that only 43 percent of facilities would opt in to the new payment system, requiring a 3.1 percent reduction in Medicare payments during the transition years in order to achieve budget neutrality. However, all dialysis centers were required to notify CMS by November 1 whether they would actually choose to fully implement the PPS. As it turns out, CMS substantially underestimated the number of centers that would opt to fully implement the new PPS. A study by The Moran Company finds more than 90 percent of all facilities intend to be paid fully under the new PPS. Using the actual number of centers opting in, rather than the CMS estimate, will ensure that Congressional intent is achieved and that dialysis care is not unnecessarily placed at risk.

Not correcting the transition adjustment now will undermine the important improvements to the Medicare ESRD program that Congress has made, including providing an annual payment update and implementing the first true pay-for-performance program under Medicare. If the

proposed 3.1 percent adjustment is implemented, overall dialysis payment cuts will be far in excess of the 2 percent Congress mandated in the Medicare Improvements for Patients and Providers Act (MIPPA). If dialysis services are underfunded, patient care will be directly and negatively affected.

To protect dialysis patients' access to quality care, Congress should instruct CMS immediately to correct the adjuster and base it on actual provider behavior so that payments made in 2011 are consistent with Congressional intent. It is very important that the Agency make the adjustment to the payment system as quickly as possible and at least by April 1, 2011.

Thank you for your attention to this important matter that could impact the lives and health of individuals on dialysis nationwide.

Sincerely,

LaVarne Burton



President and CEO  
American Kidney Fund  
6110 Executive Blvd. , Suite 1010  
Rockville, MD 20852

John Davis

*John Davis*

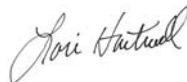
CEO  
National Kidney Foundation  
East 33<sup>rd</sup> Street  
New York, NY 10016

Tonya L. Saffer



Interim Executive Director  
Dialysis Patient Citizens  
900 7<sup>th</sup> Street, NW, Suite 670  
Washington, DC 20001

Lori Hartwell



President and Founder  
Renal Support Network  
1311 N. Maryland Ave  
Glendale, CA 91207

February 2, 2011

The Honorable Eric Cantor  
Majority Leader of the House of Representatives  
Office of the Majority Leader  
H-329 The Capitol  
Washington D.C. 20515  
Phone: (202) 225-4000  
Fax: (202) 226-1115

Dear Mr. Cantor:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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February 2, 2011

The Honorable Kevin McCarthy  
Majority Whip of the House of Representatives  
Office of the Majority Whip  
H-107 The Capitol  
Washington D.C. 20515  
Phone: (202) 225-0197  
Fax: (202) 225-0781

Dear Mr. McCarthy:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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February 2, 2011

The Honorable Nancy Pelosi  
Democratic Leader of the House of Representatives  
Office of the Democratic Leader  
H-204 The Capitol  
Washington D.C. 20515  
Phone: (202) 225-0100  
Fax: (202) 225-4188

Dear Ms. Pelosi:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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John Davis

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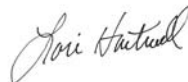
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February 2, 2011

The Honorable Steny Hoyer  
Democratic Whip of the House of Representatives  
Office of the Democratic Whip  
H-148 The Capitol  
Washington D.C. 20515  
Phone: (202) 225-3130  
Fax: (202) 226-0663

Dear Mr. Hoyer:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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Washington, DC 20001

Lori Hartwell



President and Founder  
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1311 N. Maryland Ave  
Glendale, CA 91207

February 2, 2011

The Honorable James Clyburn  
Assistant Democratic Leader of the House of Representatives  
Office of the Assistant Democratic Leader  
H-132 The Capitol  
Washington D.C. 20515  
Phone: (202) 226-3210  
Fax: (202) 225-9253

Dear Mr. Clyburn:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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Not correcting the transition adjustment now will undermine the important improvements to the Medicare ESRD program that Congress has made, including providing an annual payment update and implementing the first true pay-for-performance program under Medicare. If the

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To protect dialysis patients' access to quality care, Congress should instruct CMS immediately to correct the adjuster and base it on actual provider behavior so that payments made in 2011 are consistent with Congressional intent. It is very important that the Agency make the adjustment to the payment system as quickly as possible and at least by April 1, 2011.

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Washington, DC 20001

Lori Hartwell



President and Founder  
Renal Support Network  
1311 N. Maryland Ave  
Glendale, CA 91207

February 2, 2011

The Honorable Max Baucus  
Chairman, Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington D.C. 20515  
Phone: (202) 224-4515  
Fax: (202) 228-0554

Dear Mr. Baucus:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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February 2, 2011

The Honorable Chuck Grassley  
Ranking Member, Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington D.C. 20515  
Phone: (202) 224-4515  
Fax: (202) 228-0554

Dear Mr. Grassley:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

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February 2, 2011

The Honorable Dave Camp  
Chairman, Ways and Means Committee  
United States House of Representatives  
1102 Longworth House Office Building  
Washington D.C. 20515  
Phone: (202) 225-3625  
Fax: (202) 225-5680

Dear Mr. Camp:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

Congress established the transition adjustment to ensure budget neutrality for Medicare's new ESRD Prospective Payment System (PPS), while allowing dialysis facilities the option to transition into the new payment system during a four-year period. CMS has acknowledged that the adjustment was not intended to achieve savings beyond what was already provided in the legislation. While we appreciate that the Agency is willing to fix this during the next rulemaking cycle, we are concerned waiting until 2012 could create a hardship for many dialysis facilities that depend upon timely and accurate Medicare payments to provide high-quality care.

As we noted in our earlier letter, CMS estimated that only 43 percent of facilities would opt in to the new payment system, requiring a 3.1 percent reduction in Medicare payments during the transition years in order to achieve budget neutrality. However, all dialysis centers were required to notify CMS by November 1 whether they would actually choose to fully implement the PPS. As it turns out, CMS substantially underestimated the number of centers that would opt to fully implement the new PPS. A study by The Moran Company finds more than 90 percent of all facilities intend to be paid fully under the new PPS. Using the actual number of centers opting in, rather than the CMS estimate, will ensure that Congressional intent is achieved and that dialysis care is not unnecessarily placed at risk.

Not correcting the transition adjustment now will undermine the important improvements to the Medicare ESRD program that Congress has made, including providing an annual payment update and implementing the first true pay-for-performance program under Medicare. If the

proposed 3.1 percent adjustment is implemented, overall dialysis payment cuts will be far in excess of the 2 percent Congress mandated in the Medicare Improvements for Patients and Providers Act (MIPPA). If dialysis services are underfunded, patient care will be directly and negatively affected.

To protect dialysis patients' access to quality care, Congress should instruct CMS immediately to correct the adjuster and base it on actual provider behavior so that payments made in 2011 are consistent with Congressional intent. It is very important that the Agency make the adjustment to the payment system as quickly as possible and at least by April 1, 2011.

Thank you for your attention to this important matter that could impact the lives and health of individuals on dialysis nationwide.

Sincerely,

LaVarne Burton



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John Davis

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February 2, 2011

The Honorable Sander Levin  
Ranking Member, Ways and Means Committee  
United States House of Representatives  
1102 Longworth House Office Building  
Washington D.C. 20515  
Phone: (202) 225-3625  
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