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Stakeholders To Super Committee: Let Dialysis Patients Keep Insurance Obtained In Exchanges

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Stakeholders that have pushed the administration to let patients with kidney failure temporarily keep private insurance they purchase in the health reform law's exchanges before they shift to Medicare are now lobbying the super committee to include the policy in its recommendations, saying the proposal would save Medicare up to \$5 billion over 10 years without instituting broad payment cuts.

For several months, business groups, industry and dialysis patient advocates have urged CMS' Center for Consumer Information and Insurance Oversight to apply Medicare Secondary Payer law consistently inside and outside of the exchanges, so individuals with exchange coverage that develop end-stage renal disease -- a condition that automatically makes a patient eligible for Medicare regardless of age -- can choose to maintain their private coverage for up to 30 months. Those who develop ESRD while on private coverage through the exchange should also still be able to claim premium tax credits or cost-sharing subsidies to help afford the insurance until Medicare becomes the primary payer, they say.

But with the debt limit legislation passed in August that created the super committee, backers of the policy are now framing the issue as a deficit reduction tactic that would save Medicare money and as an alternative to instituting across-the-board cuts. An independent analysis of the policy says it would save Medicare \$4 billion to \$5 billion over 10 years, sources say, and the Congressional Budget Office is in the process of scoring the proposal.

Kidney Care Partners -- a broad group of stakeholders including dialysis facilities, patient groups and manufacturers -- says that because of the interaction between current Medicare eligibility rules for individuals with kidney failure and the limitations of MSP requirements, patients diagnosed with kidney failure do not have the same choices within exchanges as other individuals. Applying parity inside and outside the exchange would mean that individuals inside the exchanges would be able to maintain private insurance coverage for 30 months after being diagnosed with ESRD.

"The current statute appears ambiguous at best on this point; the agency implementing the exchanges appears not likely to provide such parity," Kidney Care Partners wrote in a Sept. 19 letter to the super committee.

Hrant Jamgochian, executive director of Dialysis Patient Citizens, told *Inside Health Policy* that ESRD patients want to keep their private coverage because their out-of-pocket costs would likely be lower than what they would be in Medicare. Patients also do not want to see their access limited regarding their full scope of benefits. The National Kidney Foundation, in a June letter to CCIIO Director Steve Larsen, also pointed to those arguments as justification for why ESRD patients should be able to keep the private insurance they purchased in the exchange for 30 months before being insured by Medicare.

Maintaining access to private coverage is extremely important to our members, Jamgochian said, and this policy would be a win-win for patients and Medicare. He added they have not heard feedback from CCIIO about why the MSP and exchange coverage policy has not been clarified.



The current right to maintain existing private coverage applies only to individuals with kidney disease who also have group health plans, Kidney Care Partners says. As a result, those who would enroll in coverage through exchanges would lose their ability to keep their private insurance and instead be automatically shifted to Medicare. They would also not be able to keep the health reform law's premium tax credits or cost-sharing subsidies to help afford private health insurance.

The U.S. Chamber of Commerce has also written CCIIO on the matter. In a Sept. 9 letter, the chamber wrote Larsen that applying the MSP consistently inside and outside the exchange for ESRD patients is the best fiscal and policy position on the issue.

Applying current MSP law to group health plans in an exchange with respect to ESRD would save \$1.3 billion over the next 10 years, and permitting individuals with the option of remaining in subsidized exchange plans until Medicare becomes the primary payer would save another \$3.7 billion over a decade, the chamber said.

The intent of the health reform law was to maximize consumer choice. "However, failure to apply MSP consistently would effectively eliminate consumer choice for a subset of individuals solely because they have ESRD," the chamber wrote. "These individuals would lose the plans they currently enjoy and be banned from participating in the exchanges solely because they are unfortunate to have developed ESRD." -- *Rachana Dixit* (rdixit@iwnews.com)

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