

October 3, 2022

The Honorable Robert Menendez
United States Senate
528 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Yvette Clark
U.S. House of Representatives
2058 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bill Cassidy
United States Senate
520 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jody Arrington
U.S. House of Representatives
1107 Longworth House Office Building
Washington, D.C. 20515

Dear Senator Menendez, Senator Cassidy, Congresswoman Clark and Congressman Arrington:

The American Kidney Fund (AKF) is writing in support of the Restore Protections for Dialysis Patients Act (H.R. 8594/S.4750), and we thank you for introducing this important bipartisan legislation. The bill would clarify that insurance companies comply with the Medicare Secondary Payer (MSP) law by specifically stating that a health plan cannot discriminate against dialysis patients by providing less dialysis services compared to services for other chronic illnesses. It will ensure that dialysis patients have access to the care they need on their employer sponsored insurance for 30 months before moving to Medicare as their primary insurance.

AKF works on behalf of the 37 million Americans living with kidney disease, and the millions more at risk, with an unmatched scope of programs that support people wherever they are in their fight against kidney disease—from prevention through transplant. With programs that address early detection, disease management, financial assistance, clinical research, innovation and advocacy, no kidney organization impacts more lives than AKF.

For over 40 years, end-stage renal disease (ESRD) patients on dialysis have had the option to retain their employer group health plan or COBRA coverage for up to 30 months before moving to Medicare as their primary insurance as the MSP law. Specifically, the MSP provisions protect ESRD patients from discriminatory practices by insurers that would discourage their enrollment in a private plan.

However, in a recent U.S. Supreme Court case, the MSP law was interpreted in a manner that would allow plans to get around those protections for ESRD patients and undermine Congress's intent in adopting them.

The MSP law is crucial to ensuring dialysis patients get the care they need. Continued access to private insurance helps patients afford important services such as behavioral health, dental and vision care that are not covered by Medicare. The MSP law ensures that health insurance companies focus on prevention and wellness of their subscribers because they are prohibited from dropping enrollees as soon as they receive an ESRD diagnosis and become eligible for Medicare. The 30-month coordination period allows time for family members who are enrolled in a dialysis patient's group health plan to find insurance, since Medicare does not cover families.

Additionally, the MSP law is important to taxpayers and the financial sustainability of the Medicare program. Medicare spends about \$51 billion a year on costs associated with dialysis patients, and the MSP law helps offset some of those costs to taxpayers.

The Restore Protections for Dialysis Patients Act would provide clear direction to health insurance plans that they must provide needed health care services to dialysis patients. The bill will close the loophole that allows insurance plans to coerce patients into Medicare as their primary insurance early by reducing the lifesaving services they need. The bill will return the MSP law to working for the benefit of those it was intended to protect.

Sincerely,

A handwritten signature in black ink that reads "LaVarne A. Burton". The signature is written in a cursive, slightly slanted style.

LaVarne A. Burton
President and CEO