



November 28, 2022

The Honorable Elizabeth Fowler  
Director  
Center for Medicare and Medicaid Innovation  
2810 Lord Baltimore Drive  
Windsor Mill, MD 21244

Dear Director Fowler,

On behalf of Kidney Care Partners (KCP), I want to convey our appreciation for the Center for Medicare and Medicaid Innovation (Innovation Center) continued support and refinement of the kidney disease models, particularly the ESRD Treatment Choices (ETC) Model and the Kidney Care Choices (KCC) Models. KCP remains committed to partnering with the federal government to support innovative payment systems to address shortcomings of the current ESRD Prospective Payment System. As the Innovation Center prepares to release the guidance and contracts for KCC participants, KCP would like to recommend a few modifications that align with recent changes the Innovation Center has made to the ACO REACH Model to promote health equity and provide patients in underserved communities with access to the benefits of these models.

Kidney Care Partners is a non-profit, non-partisan coalition of more than 30 organizations comprising patients, physicians, nurses, dialysis professionals, researchers, therapeutic innovators, transplant coordinators, and manufacturers dedicated to working together to improve the quality of care for individuals living with kidney disease.

**Allow individuals with chronic kidney disease (CKD) or kidney failure access to kidney-specific models.** KCP recommends that the Innovation Center modify the attribution rules for the KCC Models to attribute individual with CKD or ESRD to the specialty kidney care models and not leave them in more general, non-specialty models. Taking this approach would prioritize beneficiaries and their needs. When an ESRD-beneficiary is eligible for a voluntary model or would be included in a required model, the Innovation Center should make sure that the beneficiary is attributed to the program that is designed to support their specific need for kidney care. Not allowing this specialized attribution reinforces fragmentation of care. We appreciate that this approach could modify the attribution to more general models, but these models have the ability to enroll a broader set of individuals so it should not affect the statistical analysis or power of the studies evaluating the models.

**Establish Health Equity requirements for KCC participants.** KCP supports increasing efforts to address health equity issues, particularly with regard individuals with kidney disease and kidney failure. We recommend that the Innovation Center add a

requirement for the participants to implement a health equity plan and to report demographic and social determinants of health (SDOH). In addition, we recommend that the Innovation Center add a health equity benchmark adjustment, as it has for the ACO REACH Models.

**Realign the withholds and discounts.** In the ACO Reach Model, the Innovation Center has recognized the need to reduce the quality withhold and global risk discounts. KCP strongly supports redesigning its models to improve quality of care and care coordination for patients in Traditional Medicare, especially in underserved communities. In the ACO Reach Model, the Innovation Center has reduced the magnitude of the quality withhold in response to concerns from the participants and the rigorous outcomes-driven quality measures used in the program support the reduction. The same rationale should apply to the KCC models; thus, we recommend that the quality withhold be reduced from 5 percent to 2 percent for PY2023 and beyond.

Similarly, we suggest that the Innovation Center follow the policy it adopted in the ACO Reach Model and reduce the global risk discount in the KCC Models from 3-6 percent to 2-3.5 percent over the remaining period of the models. We have heard concerns that the current discounts are too large compared to the Comprehensive ESRD Care Model (also known as the ESCO Model). Given that the Innovation Center reduced similar discounts in the ACO Reach Model for a similar reason, we ask that the KCC Models be adjusted as well. Such a change would encourage more participants to shift from Professional to Global, which would increase the guaranteed savings to CMS.

**Allow participants to switch from graduated and professional levels to the professional and global levels more easily.** One concern we have heard repeatedly from our members is that there is not enough flexibility in the KCC Models for physicians and facilities. We believe that participation in these models would be stronger if the Innovation Center allowed for greater flexibility of movement between the different tracks. While continuity is important, allowing for such movement is essential given the limited length of the model. Specifically, we request that CMMI give CKCC participants the ability to switch to a higher risk track after one performance year.

**Provide greater transparency in financial reporting.** Participants in the KCC models are taking significant financial risk through their participation. In order to effectively manage this risk and guide operations, we request that CMMI provide the same level of transparency that is provided to ACO REACH model participants. Examples include providing a monthly beneficiary level risk score report, and sharing preliminary risk scores and retrospective trend adjustments in the quarterly benchmark report.

**Address impact of COVID-19 on PY1 with adjustments.** The COVID-19 pandemic has had a devastating impact on individuals with late-stage CKD, especially those with kidney failure. Dialysis patients continue to experience disproportionate disease burden and hospitalization related to COVID-19 and are among the groups the Centers for Disease

Control and Prevention (CDC) has identified as being the most vulnerable during the pandemic. In addition, dialysis facilities are facing a substantial workforce crisis and supply chain disruption. Taken together, these factors have led to many nephrology practices to withdraw or terminate participation during the first quarter of 2022 because of concerns about the financial liability and challenges from the pandemic. As a result of these terminations, participating facilities can no longer contact the patients of these providers for purposes of care coordination or assessing quality metrics. KCP requests that the Innovation Center allow for the following adjustments to recognize this unprecedented environment and its impact on the models.

- First, the Innovation Center should de-align patients of providers who withdrew or terminated in early 2022.
- Second, the Innovation Center should eliminate liability when a participant cannot complete the PAM or PHQ-9 surveys because the patients receive services from a providers who has withdrawn or terminated in early 2022.
- Third, the Innovation Center should maintain the PHQ-9 survey as a pay-for-reporting metric for PY2 instead of shifting it to a penalty outcomes metric.

Adopting these changes would acknowledge the extenuating circumstances that have led to the early withdrawal/termination of many nephrologists while maintaining the integrity of the program.

**Address the impact of Hurricane Ian on CMMI model participants.** As a result of the devastation caused by Hurricane Ian in September 2022, many providers in areas affected by the hurricane (especially areas covered by Secretary Becerra's PHE declarations for Hurricane Ian) have had to prioritize meeting the basic needs of their patients and staff, delaying or canceling many of the care management and quality measure initiatives planned for Q3-Q4 2022. The storm is also expected to have a lasting impact on the ability of impacted providers to resume their standard workflows. The hurricane's destructive impact follows the disruptions already created by the COVID-19 Omicron surge in hospitalizations in early 2022. We ask CMS to confirm that it will exercise its "extreme and uncontrollable circumstances" policy to waive potential downside risk of CMMI model participants impacted by these emergency declarations. In particular, due to the overlapping public health emergencies and ongoing disruption of care activities, we request that CMMI consider providing relief from financial liability and downside risk for KCC model participants for the entire performance year, not only the months in which the Hurricane Ian PHEs have been in place.

**Considering options for addressing patients with SNF admissions.** Some of our members have expressed concern that a small group of patients who require admissions to skilled nursing facilities (SNFs) are not being appropriately addressed under the model. We ask that the Innovation Center work with participants to consider options for addressing situations that occur when other providers make decisions that result in high cost services or care settings.

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November 30, 2022

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KCP appreciates the opportunity to provide these suggestions to you as the Innovation Center prepares additional guidance for the next year of the KCC Models. Please do not hesitate to contact our counsel in Washington, Kathy Lester, if you have questions or would like to discuss these recommendations with members of KCP. She can be reached at 202-534-1773 or [klester@lesterhealthlaw.com](mailto:klester@lesterhealthlaw.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Butler', with a stylized flourish extending to the right.

John Butler  
Chairman

**Appendix: KCP Members**

Akebia Therapeutics  
American Kidney Fund  
American Nephrology Nurses' Association  
American Society of Nephrology  
American Society of Pediatric Nephrology  
Ardelyx  
AstraZeneca  
Atlantic Dialysis  
Baxter  
Cara Therapeutics  
Centers for Dialysis Care  
Cormedix  
DaVita  
Dialysis Patient Citizens  
DialyzeDirect  
Dialysis Vascular Access Coalition  
Fresenius Medical Care  
Greenfield Health Systems  
Kidney Care Council  
NATCO  
Nephrology Nursing Certification Commission  
Otsuka  
ProKidney  
Renal Healthcare Association  
Renal Physicians Association  
Renal Support Network  
Rockwell Medical  
Rogosin Institute  
Satellite Healthcare  
U.S. Renal Care  
Vertex  
Vifor Pharma