



November 29, 2021

The Honorable Richard Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ron Wyden
Chairman
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Frank Pallone
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
139 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo
Ranking Member
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20510

Dear Chairman Wyden, Ranking Member Crapo, Chairman Neal, Ranking Member Brady, Chairman Pallone, and Ranking Member McMorris Rodgers:

As 2021 comes to an end, the decisions the Congress makes in the coming weeks directly impact the care of some of America's most vulnerable patients. On behalf of the Kidney Care Partners (KCP), we ask that you take steps to address several pending cuts facing physicians at the end of the year but also consider policies that could dramatically improve the lives of people who live with kidney diseases.

KCP was founded in May of 2003 as a coalition of patient advocates, dialysis professionals, care providers, researchers, and manufacturers dedicated to working together to improve quality of care for individuals living with kidney diseases. In 2019, KCP released *Kidney Care First: A Framework for Improving Renal Disease Support & Treatment*, which outlines the community's policy priorities for improving the quality of care for people with chronic kidney disease (CKD) that includes improving research, enhancing prevention, increasing surveillance, and improving treatment. The framework highlights the need to address disparities with respect to kidney disease.

Averting Pending Cuts

Specifically, KCP members are concerned about the immediate threat posed by the 2 percent reduction due to the sequester, the 4 percent cut due to statutory PAYGO, the 3.75 percent physician fee schedule cut, and the significant cuts to office-based specialists as a result of the clinical labor update. The combined impact of these separate cuts will have a profound impact on access to patient care and further health inequities. We ask that, as Congress works towards completing its work for the year with respect to appropriations and the debt ceiling, you take steps to mitigate the impact of these cuts for physicians and the patient community.

In the Spring of 2020, Congress passed legislation lifting the sequester through the duration of 2020 to provide relief in response to the COVID-19 pandemic. That was ultimately extended two more times through the end of 2021. The reimposition of the 2 percent cut due to sequestration while still in a public health emergency will place additional stress on the health care system at a time when it is already facing unprecedented challenges. KCP urges Congress to again delay the Medicare sequester.

Providers are also facing an additional 4 percent reduction in Medicare spending due to statutory PAYGO because Congress neither waived PAYGO nor provided sufficient offsets when it enacted the *American Rescue Plan Act of 2021*. This 4 percent cut would come on top of the 2 percent sequester. According to the Congressional Research Service, the Statutory PAYGO sequester has never been triggered. Congress has always voted to avoid these cuts, and KCP urges Congress to act to prevent these cuts again.

Additionally, the final Physician Fee Schedule (PFS) Rule for CY 2022 included a 3.75 percent cut resulting from evaluation and management policy changes due to budget neutrality requirements. At the end of last year, Congress took critical steps to mitigate this cut in the Consolidated Appropriations Act, 2021 with a 3.75 percent increase. The PFS also includes significant cuts going into effect this year that will have varying impacts on different medical specialties, with negative impacts particularly in the office-based setting, resulting from the clinical labor update. With respect to the kidney community, dialysis vascular access and revascularization services will see roughly 20 percent payment cuts, which will drive patients from office-based access care to inpatient care. Huge 39 percent cuts to dialysis vascular access in 2017 already have caused 20-30 percent of dialysis vascular access offices to close according to a 2018 survey from the American Society of Diagnostic and Interventional Nephrology (ASDIN).

The cumulative effect of these cuts and their impact on the patient community cannot be overstated. Kidney disease has a disproportionate impact on communities of color and on communities where poverty is common. Cuts to providers that treat kidney disease will exacerbate disparities and inequities already experienced by individuals living with kidney diseases and their communities.

Opportunities to Improve Quality of and Access to Care

Any year-end package also provides an opportunity to not only stave off threats to the patient community but also improve the lives of people with chronic kidney disease. KCP asks that you consider including policies that will dramatically improve the lives of people who live with kidney disease. KCP supports the *Chronic Kidney Disease Improvement in Research and Treatment Act* (S. 1971/H.R. 4065), which was introduced in the Senate by Sens. Ben Cardin (D-MD) and Roy Blunt (R-MO) and in the House by Reps. Terri Sewell (D-AL) and Vern Buchanan (R-FL). This important bipartisan legislation includes several policies to provide better access to affordable health care coverage for people with kidney disease and to increase the quality of the care they receive.

KCP urges Congress to include language on the following provisions from the *Chronic Kidney Disease Improvement in Research and Treatment Act*:

- Provide guaranteed availability of Medigap policies to all Medicare beneficiaries living with kidney failure, regardless of age. A [new independent cost analysis](#) estimates that this policy would increase federal spending by only \$50 million over 10 years.
- Allow people with kidney failure to retain access to private insurance longer. This policy, according to the same analysis, would *reduce* federal spending by \$1.2 billion over 10 years.
- Prohibit the Department of Health and Human Services (HHS) Secretary from adopting any quality measure or quality measure composite that has been considered but has not been endorsed by the NQF or a similar entity.
- Require the HHS Secretary to use only measures that have been shown through testing to be statistically valid and reliable.
- Add CKD screening to the annual wellness benefit to allow Medicare beneficiaries to learn if they have CKD and enable beneficiaries to seek treatment to slow the progression toward kidney failure and better prepare for transplant, dialysis or comprehensive medical management of kidney failure.
- Expand the Kidney Disease Education (KDE) benefit to: (1) allow dialysis facilities to provide kidney disease education services; (2) permit physician assistants, nurse practitioners, and clinical nurse specialists, in addition to physicians, to serve as referral sources for the benefit; and (3) provide access to these services to Medicare beneficiaries with CKD stage 5 who are not receiving dialysis.

These important provisions would significantly improve the lives of people living with kidney disease. They would expand choice of insurance coverage for people living with kidney disease and help them better afford their cost of care. They would also improve quality of care and expand awareness and education around kidney disease.

People with CKD, including those with ESRD, are among the most vulnerable in our country. KCP has been working to improve care for those with kidney disease, and the cuts providers are facing at the end of the year would represent a step back in that effort. We urge you to take action to protect patients and prevent these cuts from going into effect at the end of the year. We also ask that you consider including policies to improve the lives of those with kidney disease.

We are committed to working with you to that end and would like to be a resource in those efforts.

Sincerely,

Kidney Care Partners

Akebia Therapeutics
American Kidney Fund
American Nephrology Nurses Association
American Society of Nephrology
American Society of Pediatric Nephrology
Amgen
Ardelyx
AstraZeneca
Atlantic Dialysis Management Services
Baxter Healthcare Corporation
B. Braun Medical, Inc.
CARA Therapeutics
Centers for Dialysis Care
CorMedix Inc.
DaVita, Inc.
Dialysis Patient Citizens
Dialysis Vascular Access Coalition
DialyzeDirect
Fresenius Medical Care North America
Fresenius Medical Care Renal Therapies Group
Greenfield Health Systems
Kidney Care Council
National Renal Administrators Association
Nephrology Nursing Certification Commission
North American Transplant Coordinators Organization
Otsuka America Pharmaceuticals, Inc.
Renal Physicians Association
Renal Support Network
Rockwell Medical
Rogosin Institute
Satellite Healthcare
U.S. Renal Care
Vertex Pharmaceuticals
Vifor Pharma Ltd.