

May 12, 2025

SUBMITTED ELECTRONICALLY

The Honorable Bill Cassidy
United States Senate
455 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Kevin Cramer
United States Senate
313 Hart Senate Office Building
Washington, DC 20510

The Honorable Cory Booker
United States Senate
306 Hart Senate Office Building
Washington, DC 20510

The Honorable Martin Heinrich
United States Senate
709 Hart Senate Office Building
Washington, DC 20510

RE: Disability Community Support for S. 1173, the Restore Protections for Dialysis Patients Act

Dear Senators Cassidy, Booker, Cramer, and Heinrich:

On behalf of the undersigned organizations, we write to thank you for your leadership in reintroducing S. 1173, the *Restore Protections for Dialysis Patients Act* (“Restore Act”). This bipartisan and bicameral bill seeks to restore long-standing health insurance protections for individuals with end-stage renal disease (“ESRD”), a life-threatening condition that requires kidney dialysis at least three times per week. More specifically, this bill would restore the intent of the Medicare Secondary Payer Act (“MSPA”) and protect individuals with ESRD from discriminatory practices that single out renal dialysis patients for disfavored insurance treatment compared to individuals with other conditions.

The undersigned organizations represent individuals, organizations, and health professionals who are deeply concerned with how this loophole could negatively impact access to care for individuals with kidney failure. We are concerned that without the protections of the MSPA, longstanding health inequities will be exacerbated, especially as providers are now allowed to implement discriminatory practices.

The MSPA has been in place for over 40 years to ensure that individuals who require kidney dialysis have continued and full access to the health services they need. Because individuals with ESRD are eligible for Medicare coverage below age 65, the MSPA was designed to ensure that employers did not limit kidney dialysis benefits, effectively forcing dialysis patients onto Medicare prematurely and off employer coverage. These discriminatory practices were illegal under the MPSA since 1981 until a recent U.S. Supreme Court decision, known as the *Marietta* holding, opened a loophole that could prematurely force individuals in the United States with kidney failure off employer-sponsored health insurance and onto Medicare as their sole payer, despite the intended protections of the MPSA.

Without a legislative fix to reverse the impact of the loophole created by the *Marietta* holding, employer-sponsored plans are now—and will continue to be—able to disregard the “anti-

differentiation” requirement under the MSPA. This will permit employer plans to openly discriminate in the dialysis benefits they provide to their enrollees, which could severely limit access to care for people with kidney failure. This also upends health insurance coverage for family members of those requiring dialysis covered by private employer plans.

S. 1173 would reestablish protections for individuals with ESRD and prevent discriminatory practices by private health plans. Discrimination in health insurance against individuals with one health condition should be considered discrimination against all individuals with health conditions. For these reasons, we thank you for reintroducing this important bill and look forward to working with you and your colleagues in the Senate to pass and enact it into law as soon as possible in the 119th Congress.

Sincerely,

The Undersigned National Organizations in Support of Passage of the Restore Act:

Access Ready, Inc.

ACCSES

American Academy of Physical Medicine and Rehabilitation

American Association of Nurse Practitioners

American Association on Health and Disability

American Medical Rehabilitation Providers Association

American Music Therapy Association

American Nephrology Nurses Association

American Society of Nephrology

American Therapeutic Recreation Association

Amputee Coalition

Autistic Self Advocacy Network

Autistic Women and Nonbinary Network

Black Women’s Health Imperative

Brain Injury Association of America

Christopher and Dana Reeve Foundation

Disability Rights Education and Defense Fund

Falling Forward Foundation

Family Voices

Health is for EveryBODY

Justice in Aging

Lakeshore Foundation

Lupus and Allied Diseases Association, Inc

Minority Health Institute

Muscular Dystrophy Association

National Association of Councils on Developmental Disabilities

National Association for the Advancement of Orthotics and Prosthetics

National Association of Hispanic Nurses

National Association of State Head Injury Administrators

National Black Nurses Association
National Council of Asian Pacific Islander Physicians
National Disability Rights Network
National Health Law Program
National Minority Health Association
National Patient Advocate Foundation
RESNA
Spina Bifida Association
The Arc
United Cerebral Palsy