



## **ATRA “REBASING” MUST ENSURE THE CONTINUED VIABILITY OF THE MEDICARE DIALYSIS BENEFIT**

The American Taxpayer Relief Act of 2012 (ATRA) requires the Secretary to adjust Medicare payments for dialysis to reflect changes in drug utilization. The overwhelming majority of people with kidney failure, regardless of their age, rely on Medicare to pay for their life-sustaining dialysis treatments. Congress enacted a new bundled payment rate for the Medicare End Stage Renal Disease (ESRD) program that was implemented in 2011. We urge Congress to oversee implementation of ATRA’s ESRD provisions to ensure that CMS protects this crucial benefit while fulfilling the statutory mandate.

While the kidney care community agrees that costs and payments should be aligned, the Centers for Medicare and Medicaid Services (CMS) must not set a Medicare payment rate that is lower than the cost of providing dialysis care. If new payment rates do not cover costs, facilities may be forced to reduce the number of staff or staff hours, which would affect when patients can receive dialysis treatments and could negatively impact access to social workers, nurses, and dietitians who patients rely on for care. Congress should exercise its oversight to ensure that implementation of the ATRA adjustment does not destabilize the Medicare ESRD bundled payment system or have a negative impact on dialysis patients.

- While it may need to be refined over time, the bundled payment system is working as CMS’ own quality data show. Patient outcomes have improved or remained high in most cases through the transition to a bundled payment.
- Dialysis facilities’ Medicare margins have historically been narrow – between 2 and 3 percent in 2011 and 2012, according to the Medicare Payment Advisory Commission (MedPAC). Dialysis facilities have remained committed to delivering high-quality care in spite of recent dramatic reductions to Medicare reimbursement.
- CMS will be making the payment adjustment using only one year of data. During the January 2013 meeting, MedPAC Commissioners highlighted that for other payment systems, rebasing was informed by years of evidence that demonstrated that the cost of care was not aligned with care delivery. This is among the reasons why the MedPAC Chairman cautioned against adjusting the base rate at this early stage.
- The Social Security Act obligates the Secretary to set ESRD payment rates “on a cost-related basis or other economical and equitable basis.”<sup>1</sup> Reducing the payment rate below the cost of providing dialysis care based on a different statutory provision would not be basing payment on cost-related principles, nor would it be economic and equitable, and thus would violate federal law. Congress must ensure that CMS fulfills its obligation to set a payment rate that takes into account the cost of providing care and other economic and equitable factors.

CMS should not undermine the nascent bundled payment system by setting payments that result in zero or negative Medicare margins for dialysis facilities, which is possible if the Agency does not consider the cost of all of the items and services provided. Congress must carefully oversee the implementation of ATRA to ensure that CMS fulfills all statutory directives and does not destabilize the ESRD program.

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<sup>1</sup> 42 U.S.C. § 1395rr(b)(2)(B)(i) (2013).