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# Congress of the United States

## U.S. House of Representatives

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May 28, 2013

Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Administrator Tavenner:

We are writing regarding the recently enacted provisions in the American Taxpayer Relief Act (ATRA) requiring adjustments to the End-Stage Renal Disease (ESRD) bundled payment system and the Centers for Medicare and Medicaid Services' (CMS) implementation of the ESRD payment system.

Medicare provides insurance coverage for nearly 80 percent of individuals with ESRD on dialysis. As you know, Congress and CMS have worked collaboratively for many years to create a viable ESRD payment system to improve quality, decrease mortality, and provide access to needed treatments.

Congress enacted the ESRD prospective payment system, or "bundle," in the 2008 Medicare Improvements for Patients and Providers Act (MIPPA) in response to longstanding recommendations from the Medicare Payment Advisory Commission and the Government Accountability Office (GAO). MIPPA also included a quality incentive program and various protections to guard against stinting and ensure beneficiaries received appropriate care. It also directed GAO to study the change in utilization of drugs and biologics as use was expected to decline because of the bundled payment and in response to the FDA label. In response to GAO's findings, ATRA directed the Secretary to lower payments to take into account the significant drop in utilization of these products.

At the same time that we find it appropriate to adjust payments for the reduction in drug utilization, we also want to ensure that beneficiaries continue to have access to a quality program. We are confident that both goals are consistent and attainable. Due to the delicate nature of this important task, we ask that you keep us apprised of the Agency's actions to implement the ATRA provision as well as any actions to refine the bundled payment system in response to concerns about payment accuracy raised by stakeholders. We are specifically interested in the rulemaking that the agency is undertaking to implement the ATRA provisions and update the payment system, including the effect on beneficiary access to care, especially for those in rural and inner-city communities.

CMS has been a partner with Congress and the ESRD community in this joint effort to create and update a system that is responsible for some of the nation's sickest patients. We look forward to continuing to work with you on our efforts to improve and preserve these crucial services for vulnerable beneficiaries.

We appreciate your attention to this important issue. If you have questions please feel free to contact Brett Baker with the majority staff or Jennifer Friedman with the minority staff at 225-3943 or 225-4021, respectively.

Sincerely,



KEVIN BRADY  
Chairman  
Subcommittee on Health



JIM MCDERMOTT  
Ranking Member  
Subcommittee on Health