



March 27, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
U.S. Capitol H-222
Washington, DC 20515

The Honorable Mitch McConnell Senate
Majority Leader
United States Senate
U.S. Capitol S-230
Washington, DC 20510

Dear Speaker Pelosi and Majority Leader McConnell:

On behalf of the members of the Kidney Care Partners (KCP), we urge you to keep in mind that patients with chronic kidney disease (CKD) and End Stage Renal Disease (ESRD) are among the most vulnerable in the COVID-19 public health crisis. Patients with kidney disease often have far more comorbidities, such as heart disease and diabetes, and are at far greater risk than the general population. Additionally, patients with ESRD must receive dialysis multiple times per week—often requiring travel to a facility, putting them at greater risk of infection. Given the unique susceptibility and needs of this patient population, we urge you to take targeted action to protect this vulnerable patient community in your legislative response going forward.

Kidney care providers, who continue to care for their patients, are on the frontlines of care during this crisis. By maintaining current coordinated care programs for these individuals, providers can help patients avoid costly hospital re-admissions at a time when the healthcare system is overwhelmed by new COVID-19 cases.

[Recent analyses of data](#) from China, Italy and Washington state show individuals with CKD and ESRD face higher morbidity and mortality rates from COVID-19 than the general population. Providers are implementing emergent healthcare protocols to mitigate this increased risk, including increased patient screening and evaluation, isolation and separation of patient and clinical staff to avoid potential spread and additional dialysis shifts to accommodate patient needs. These protocols all require increased staffing and resources.

Kidney Care Partners 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. KCP members are dedicated to meeting the needs of this patient population during the COVID-19 outbreak and have already taken unprecedented measures to do so. However, given the magnitude and unique challenges of the COVID-19 crisis, targeted congressional action is necessary to ensure this vulnerable patient population is protected.

KCP urges congress to consider the following target legislative actions:

- **Provide Supplies and Capacity Support** – Provide assistance for Personal Protection Equipment (PPE) and other medical supplies for the safe treatment of patients infected with COVID-19 and ensure that dialysis facilities are prioritized in distribution. Additionally, assistance for temporary locations for those infected with COVID-19 is also crucial to ensure containment of the virus.
- **Provide financial relief to health care providers caring for patients on dialysis -** Providers of dialysis are facing severe challenges related to workforce shortages, greater demands in supplies and equipment and patient support services. The following actions are crucial to ensure these providers are equipped to help manage the patient population:
 - Provide relief from the two percent Medicare Sequester
 - Allow dialysis facilities to be reimbursed for 100 percent of allowable “bad debt” under the ESRD PPS
 - Allow access to dialysis providers to any provider stabilization fund enacted by Congress for emergency expenses such as childcare needs for health care workers
- **Expand the use of Telemedicine -** We request that Congress mandate a change in status indicators for CPT codes 99441-99443 for telephone consultation services from their present status of ‘N’ representing a non-covered service to ‘A’ for representing a covered service.
- **Provide Authority and Resources for Patient Assistance** – The COVID-19 crisis is interrupting many wraparound services for patients with ESRD such as transportation and nutrition. There are non-profit organizations like the American Kidney Fund that assist patients with such services through various grant programs. However, the funding for such programs is limited. To assist these organizations in responding to the crisis, we suggest the following legislative actions:
 - Provide an enhanced safe harbor protection from Stark and Anti-Kickback statute violations for healthcare providers to facilitate patient assistance programs such as transportation and co-pay waivers during the COVID-19 outbreak.
 - Provide grants to eligible 501 (3)(c)-non-profit entities like the American Kidney Fund (for ESRD patients specifically) to enhance COVID-19-specific direct patient financial assistance programs.
- **Ensure Part D Coverage for FDA-approved Drugs for Chronic Kidney Disease Patients** – Congress should mandate Medicare Part D coverage for all oral agents indicated by the Food and Drug Administration (FDA) to treat conditions associated with CKD (patients who do not require dialysis). Many patients with CKD require treatments such as infusions in hospital outpatient departments. In certain circumstances, new FDA approved therapies have been indicated for conditions associated with CKD but lack Medicare Part D coverage, such as an oral drug to treat anemia, because of unduly narrow interpretation by CMS. If Congress were to mandate coverage for such oral drugs it would allow patients

with CKD to receive treatment at home, maintain social isolation and mitigate their risk of contracting COVID-19, and free hospitals to treat severely ill patients.

Thank you for the work the Congress has already done to address the COVID-19 pandemic. KCP appreciates your consideration of the unique needs of this vulnerable patient population. We stand ready to help Congress as it continues its work to respond to the COVID-19 crisis.

Sincerely,

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

John P. Butler
Chairman