

November 6, 2023

The Honorable Brett Guthrie
Chairman, House Energy and
Commerce Committee
Subcommittee on Health
2434 Rayburn H.O.B.
Washington, DC 20515

The Honorable Larry Buchshon
Vice Chair, House Energy and
Commerce Committee
Subcommittee on Health
2313 Rayburn H.O.B.
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member, House Energy and
Commerce Committee
Subcommittee on Health
272 Cannon H.O.B.
Washington, DC 20515

Dear Chairman Guthrie, Vice Chair Bucshon, Ranking Member Eshoo and Members of the House Energy and Commerce Health Subcommittee:

As representatives of millions of American patients, consumers, and seniors, we, the undersigned organizations, implore you and your colleagues to promptly pass the Kidney PATIENT Act of 2023 (H.R. 5074). This legislation is necessary to improve the care of patients on dialysis who suffer from life-threatening kidney disease and for populations in this country that are already underserved by our health care system.

For those with End Stage Renal Disease, or more commonly known as patients who are on dialysis, phosphorus can build up in the blood, requiring dietary changes and the addition of phosphate lowering therapies (PLT) for 80 percent of dialysis patients. High levels of phosphate in a patient's blood can lead to heart attack or stroke if left untreated. These PLTs are currently paid for in Medicare Part D, allowing patients to access their treatment from their community pharmacist, and enabling their healthcare provider to decide what treatment is best for their patient. However, CMS intends to move payment for all PLTs into the already under-funded ESRD payment bundle, which would restrict access to these critical and necessary medications.

If PLTs are included in the ESRD payment bundle, they will be competing with other treatments for coverage. This means that inevitably, some patients will have less access to these drugs that reduce their risk of death. It's an unnecessary and ill-conceived step and one that degrades the health care needed by patients already struggling with serious disease.

In assessing your position, we urge you to note that movement of PLTs into the ESRD bundle:

- Will have an outsized impact on minority, rural, and low-income patients who experience food insecurity challenges, as they require the most flexibility to manage their phosphorus levels. Protocols that are expected to be implemented if these treatments enter the bundle will limit access and treatment choices for those that need them the most.
- In order for phosphate lowering drugs to be effective, they must be taken multiple times per day with meals and snacks, rather than once during a dialysis session when patients are not allowed to eat.
- Patient responses may vary with the different PLTs that are available; managing high phosphorus levels requires individualized care and shared decision-making, so each patient receives the right treatment or combination of treatments at the right time.
- Moving PLTs into a bundled system will limit flexibility and variability when patients need it the most.
- Forcing this change will contribute to a drop in adherence to treatment plans.

- Researchers have found higher rates of kidney failure in historically redlined neighborhoods across all races and higher rates in Black adults across all neighborhoods, demonstrating the long-term impact this historically discriminatory policy has had on health disparities in kidney disease.

Congressional action has been needed previously to maintain accessible coverage for PLTs, and it is essential that Congress act again. The Kidney PATIENT Act would instruct CMS to delay adding PLTs to the ESRD bundle until 2033 or until an intravenous treatment for lowering phosphate has been approved by the Food and Drug Administration. This is common-sense legislation that will ensure patients with severe kidney disease who are on dialysis can continue to receive quality health care. Thank you in advance for your support.

Sincerely,

Advocates for Responsible Care
African American Diabetes Association, Inc.
Atlanta Black Nurses Association
Dorothy Marie Kinnard Foundation
Georgia Bio
Lupus and Allied Diseases Association, Inc.
Lupus Society of Illinois
MTS Sickle Cell Foundation
NAACP New York State Conference
NewYorkBIO
New York State Academy of Family Physicians
New York State Osteopathic Medical Society
Northwest Kidney Council
Peer Plus Education and Training Advocates
RedMoon Project
Ruby A. Neeson Diabetes Awareness Foundation
Rx in Reach Coalition
Sickle Cell Association of Kentuckiana
Sickle Cell Disease Association of Illinois
Sickle Cell Thalassemia Patient Network (SCTPN)
The Kidney Foundation of Central PA
Virginia Sickle Cell Network