

## **Oppose the Dialysis PATIENTS Demonstration Act (H.R. 4143 and S. 2065)**

**TRANSPLANT COMMUNITY OPPOSITION:** The transplant community, including two of the leading international transplant organizations, a prominent kidney patient advocacy group, and the organ procurement association, strongly opposes H.R. 4143 and S. 2065 because this legislation would negatively impact Medicare beneficiaries' continued access to kidney transplantation. See our [Joint House Letter](#) and [Joint Senate Letter](#) in opposition to the bills.

**OVERVIEW OF LEGISLATION:** H.R. 4143/S. 2065 would establish a new demonstration program under which an unlimited number of Organizations created by large dialysis organizations would be paid on the basis of Medicare Advantage capitated rates for all Medicare services (including transplantation) provided to ESRD patients who regularly receive dialysis from them.

**ISSUES:** We are greatly concerned that this legislation would:

- **Make Dialysis Providers Responsible for Transplant**
  - The legislation includes transplant as a service to be provided by the new Organizations.
  - As such, the legislation would place complete control over transplantation—one of the most highly complex surgical procedures—in the hands of dialysis facilities that have no expertise in the field.
- **Dis-incentivize Transplant Via Strong Financial Incentives**
  - The legislation gives the newly created Organizations extremely strong financial incentives NOT to make transplantation accessible or attractive.
  - Because the legislation would make patients who are successfully transplanted ineligible for participation, an Organization's Medicare payment would be reduced by about \$80,000 per year, per patient for every successful transplant.
- **Severely Limit Beneficiary Choice**
  - The legislation automatically enrolls ESRD patients receiving dialysis from a participating dialysis facility into an Organization's managed care system (with limited opt-out options).
  - Automatic enrollment and restrictions on opting out would limit beneficiary choice for those with ESRD, a particularly fragile group of patients.

- **Contradict and Preempt Existing Government Efforts to Coordinate Care for ESRD Patients**

- The legislation does not limit the number of patients subject to the “demonstration,” and the new and untested model it authorizes could be made mandatory and extended nationwide without Congressional approval.
- The legislation would derail efforts to deliver better care coordination to ESRD patients, by funneling an unlimited number of these patients to Organizations likely to be controlled by Large Dialysis Organizations. These Organizations are not subject to requirements meant to protect Medicare Advantage patients including financial requirements, marketing restrictions, and regulatory oversight.
- The legislation preempts voluntary enrollment by ESRD patients in a Special Needs Plan (SNP) now and Medicare Advantage Plan (21<sup>st</sup> Century Cures law) in 2021.
- The legislation thwarts an ongoing and successful CMMI demonstration program involving both Large and Small Dialysis Organizations where the Government shares in savings resulting from better care coordination and quality. Under the legislation, any savings from care coordination appear to flow directly to the Large Dialysis Organizations.

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