

June 29, 2010

The Honorable Pete Stark  
239 Cannon House Office Building  
Washington, DC 20515

The Honorable Dave Camp  
341 Cannon House Office Building  
Washington, DC 20515

The Honorable Ron Kind  
1406 Longworth House Office Building  
Washington, DC 20515

Dear Representatives:

As the national stakeholder organizations representing professionals engaged in the field of organ donation and transplantation, as well as patients and candidates for transplant, we wanted to thank you for your unwavering commitment to improving public policy that impacts transplant patients. This commitment has been highlighted by your sponsorship and support for H.R. 1458, the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act. As you know, the transplant community has long pushed for eliminating the current arbitrary 36-month limit on immunosuppressive drug coverage imposed on Medicare ESRD beneficiaries. We thank you for your leadership on this important issue.

Recently, the transplant community was asked to review draft legislation that would make changes to H.R. 1458 based on your discussions involving cost and coverage recommendations from both the Congressional Budget Office (CBO) and the Centers for Medicare & Medicaid Services (CMS). We strongly endorse the language in this legislative draft as we believe it makes several improvements to the existing legislation.

In particular, we believe making the immunosuppressive drug benefit retroactive to all beneficiaries who have a Medicare-covered transplant is an important addition. While we recognize that additional cost has always been a concern regarding retroactivity, we support every reasonable effort to extend the benefit to those who have previously received a transplant, whose coverage has expired, and who as a consequence may have restricted access to immunosuppressive drugs.

Furthermore, reducing the cost of the Part B premium for the beneficiary of the immunosuppressive drug coverage is an important adjustment. As you know, the beneficiary is only eligible for a portion of the Part B benefit under this legislation, and therefore should only be responsible for a portion of the premium. This is a welcome adjustment and we thank you for making that change.

It is our strong belief that the 36-month limit on coverage needs to be addressed by Congress in the very near future. There has been speculation that extending the Medicare benefit beyond 36 months is no longer needed with the enactment of The Patient Protection and Affordable Care

Act (PPACA), as immunosuppressive drug coverage *could* be included in a benefits package as determined by the Secretary of the Department of Health and Human Services (HHS). We disagree with this speculation and urge Congress to move forward with legislation to end the coverage inequity as soon as possible.

As you know, HHS does not finalize coverage determinations from PPACA until 2014. During that period over 50,000 new kidney transplants will be performed and those patients will face the uncertainty of not knowing whether they will have adequate access to immunosuppressive drugs in the long term. Additionally, there is no assurance that immunosuppressive coverage will be included in any level of coverage determined by the Secretary. This is a risk we see as too great. Furthermore, unless the Secretary includes immunosuppressive drug coverage in the Essential Benefits Package, which seems highly unlikely given the potential cost of the benefit, there will always be a population in need of coverage. H.R. 1458 has always been seen as a “coverage backstop” to provide immunosuppressive drug coverage only when a patient has no other form of coverage. Nothing included in PPACA changes this fact.

The transplant community believes that this new draft legislation should be used for the remainder of the 111<sup>th</sup> Congress to reenergize our collective efforts to draw attention to this issue and push for enactment of H.R. 1458, as amended by this new draft language. In the meantime, we will continue to seek additional cosponsors of H.R. 1458 and work to familiarize current and potential cosponsors of the pending new draft language.

Thank you again for your determination on this issue. We look forward to working with you to see that all transplant recipients receive the immunosuppressive drug coverage they need.

Sincerely,

American Society of Transplantation

National Kidney Foundation

PKD Foundation

American Association of Tissue Banks

American Society of Pediatric Nephrology

American Society of Transplant Surgeons

United Network for Organ Sharing

American Society of Nephrology

Transplant Recipients International Organization

NATCO, The Organization for Transplant Professionals

American Liver Foundation

American Association of Kidney Patients