

Congress of the United States
Washington, DC 20515

July 16, 2021

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244

Dear Administrator Brooks-LaSure:

We write today to respectfully request a delay of portions of the fiscal year (FY) 2022 Inpatient Prospective Payment System (IPPS) Proposed Rule that would potentially harm patient access to transplantation. Changes to the United States' system of transplantation should be accompanied by in-depth and thorough impact analyses and direct input from the transplant stakeholder community. To avoid any unintended, harmful consequences to patient care, we strongly urge the Centers for Medicare and Medicaid Services (CMS) to pause implementation of those portions of the rule and to work with the transplant community to achieve shared public policy goals.

We appreciate the Administration's initiatives focused on increasing the availability of renal transplantation and agree that transplantation is generally the best and most cost-effective treatment option for those with End-Stage Renal Disease (ESRD). However, we are concerned the Proposed Rule could have a negative impact on organ availability and access to transplantation. Some of these changes are scheduled to begin as early as October 2021 for some centers. We have been informed that this timeline would not provide sufficient time for affected transplant centers to modify their operations to cut costs or renegotiate contracts with non-Medicare payers. Our constituents in the transplant community are eager to share their impact analyses with CMS and to work together to find solutions that do not upend the transplant system.

The transplant-related provisions of the Proposed Rule would eliminate a longstanding feature of the organ acquisition cost payment system that has been in place for three decades and that is intended to incentivize transplant centers to retrieve deceased donor organs. Specifically, the transplant-related provisions in the Proposed Rule would limit Medicare payment for costs related to living donors and the amounts payable to community hospitals for organ retrieval. We understand that transplant centers constitute only 15 percent of donor hospitals but retrieve 36 percent of deceased donor organs.¹ The precipitous elimination of this incentive is likely to significantly reduce the deceased donor organs available for transplantation, potentially reducing access to transplantation and increasing the risk for patients waiting for a transplant.

¹ <https://optn.transplant.hrsa.gov/data/view-data-reports/build-advanced/>

Under current rules, organs that are retrieved from deceased organ donors at a transplant hospital and provided to an Organ Procurement Organization (OPO) for placement at another transplant center are “counted” as Medicare organs for the purpose of determining the portion of organ acquisition costs payable by Medicare. The 2022 IPPS Proposed Rule would eliminate this assumption and require donor transplant centers to obtain evidence from recipient transplant centers regarding the insurance status of each recipient of an organ retrieved by the donor hospital – a considerable administrative burden. Adding such additional burdens for transplant centers could mean that these professionals will have less time to focus on patient care and facilitation of transplantation.

CMS estimates that this change would result in substantial Medicare payment reductions for organ acquisition costs – reductions totaling \$230 million in FY 2022 alone – a significant portion of which would be borne by the 262 transplant centers that engage in organ retrieval throughout the United States. However, we are concerned that the potential negative impact on transplantation resulting from the proposed rule could undermine these savings. Just last year, with the passage of the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act, the Congressional Budget Office concluded there are financial savings when access to transplantation is increased.

As such, we strongly urge CMS to pause implementation of the transplant provisions of the IPPS Proposed Rule. We respectfully request that CMS conduct a comprehensive study of the proposal’s potential impact on patient access to transplantation and work with relevant stakeholders to address patient access concerns.

Sincerely,



Michael C. Burgess, M.D.
Member of Congress



Ron Kind
Member of Congress



Robert B. Aderholt
Member of Congress



Cindy Axne
Member of Congress



Gus Bilirakis
Member of Congress



Kevin Brady
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Mo Brooks

Mo Brooks
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Byron Donalds
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Neal P. Dunn, M.D.
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Brian Fitzpatrick
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