2019 LEGISLATIVE PRIORITY

Protecting dialysis patients, lowering costs

The Problem

Since the passage of the Affordable Care Act, patients cannot be denied health coverage based on a pre-existing condition such as kidney failure. While this is a profound advancement for dialysis patients, it also provides an opportunity for bad actors to take advantage of payers without offering better health care solutions.

Some dialysis providers are putting patients at risk and driving up everyone's health care costs by coaxing patients to sign up for expensive health insurance with a strings-attached promise that a nonprofit funded by the dialysis industry will pay their premiums. It is illegal for dialysis companies to directly pay premiums for patients, so the dialysis companies instead pay hundreds of millions of dollars to the American Kidney Fund, which then pays health insurance premiums for dialysis patients (this is known as third-party premium payments). Dialysis companies are motivated to do this because commercial insurance reimbursement rates for dialysis are typically several times greater than Medicare or Medicaid rates, and the higher commercial rates can add up to more than $100,000 per patient per year. [1,2]

In 2016, the Centers for Medicare and Medicaid Services (CMS) reviewed this type of activity at dialysis clinics and found that third-party premium payments by financially interested individuals can place patients at risk of harm in the following ways:

1. Negatively impacting patients' determination of readiness for a kidney transplant
2. Potentially exposing patients to increased out-of-pocket costs for health care services
3. Placing patients at significant risk of a mid-year disruption in health care coverage[3]

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The Solution

Dialysis providers who directly or indirectly pay insurance premiums for dialysis patients should not be allowed to price gouge insurance companies, nor stop premium payments mid-year if the patient gets a kidney transplant. Those practices drive up rates for anyone enrolled in a health plan.

SB 900 establishes safeguards to protect dialysis patients who get caught up in these schemes and removes the financial incentive for unscrupulous providers to take advantage of the system.

Protect consumer choice in treatment. Financially interested dialysis companies and the nonprofits that they fund would have to disclose to both the patient and health plan their intention to pay a patient's premiums and would also be required to pay premiums for the full plan year, even if the patient stops dialysis treatment.

Shield patients from balance billing. Financially interested entities would be prohibited from balance billing a patient for the difference between the Medicare rate and the contracted-insurance rate.

Remove lucrative incentives. Financially interested dialysis providers who directly or indirectly pay a patient's health insurance premiums would only be entitled to the lesser of the Medicare rates or the rate set by the patient's health insurance policy.

About Act Now for a Healthy Oregon

Act Now for a Healthy Oregon is a campaign of the Service Employees International Union, the largest healthcare union in the country. With caregivers in the lead, Act Now for a Healthy Oregon is on the frontlines of change. We won't stop until non-profit hospitals put our patients and our communities first.

Learn more at: www.ActHealthyOregon.org

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1. https://www.nytimes.com/2016/12/25/business/kidney-fund-seen-insisting-on-donations-contrary-to-government-deal.html
2. https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ESRD-IFC-FactSheet-FINAL-2-12-12-16.pdf
3. US Department of Health and Human Services, Medicare Program; Conditions for Coverage for End-Stage Renal Disease Facilities—Third Party Payment, Interim final rule with comment period (December 14, 2016), https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-30016.pdf