

November 15, 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Dear Majority Leader Reid and Speaker Pelosi:

As the national stakeholder organizations representing transplant patients, candidates for transplant, and professionals engaged in the field of organ donation and transplantation we strongly urge swift passage of S.565/H.R. 1458, the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act. This important legislation will eliminate the current arbitrary 36-month limit on immunosuppressive drug coverage imposed on Medicare end stage renal disease (ESRD) beneficiaries.

Currently, Medicare Part B coverage of immunosuppressive drugs ends 36 months after the patient receives their transplant, but patients are required to take immunosuppressives indefinitely in order to preserve their gift of life. Patients often find themselves unable to afford their medications once Medicare drug coverage lapses and often are forced to begin reducing their medications or forego them altogether, eventually resulting in a completely unnecessary failure of the transplanted kidney.

If the transplant fails, patients are forced to return to dialysis. According to the Congressional Budget Office (CBO), Medicare spends an average of \$77,000 per year dialyzing patients with kidney failure, and Medicare covers dialysis treatments indefinitely. The annual Medicare cost of immunosuppressive drug coverage to maintain the transplant is less than \$18,000 per patient. Removal of the arbitrary time limit on immunosuppressive drug coverage makes financial sense, for sure, but the unnecessary human toll as a result of the current policy is tragic and unconscionable.

H.R. 1458 was included as a common sense provision in the House-passed health care reform bill, H.R. 3962, the Affordable Health Care for America Act, but unfortunately was omitted from the Patient Protection and Affordable Care Act (PPACA). The sponsors and supporters of S.565/H.R. 1458 have circulated new draft legislation that would make changes to H.R. 1458 based on discussions involving cost and coverage recommendations from both the CBO and the Centers for Medicare & Medicaid Services (CMS). The revised CBO estimate is now lower than that from 2009. In June of this year our organizations sent a letter endorsing these changes and encouraging swift passage of this revised legislation. We believe it is imperative that Congress pass the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act, as revised, when you return to session following the elections.

There has been speculation that extending the Medicare benefit beyond 36 months is no longer needed with the enactment of 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). However, PPACA does not guarantee coverage of immunosuppressives in either the employer-sponsored insurance market or the Health Exchange market. Unless the Secretary includes immunosuppressive drug

coverage in the Essential Health Benefits Package, which seems unlikely given the potential cost of the benefit for a relatively small number of patients, there will always be a population in need of coverage. Additionally, there is no assurance that immunosuppressive coverage will be included in any level of coverage determined by the Secretary. PPACA states that the Essential Health Benefits Package must equal the scope of benefits provided under a “typical employer insurance plan.” However, there is no guarantee that a “typical employer plan” covers immunosuppressives. Finally, before HHS finalizes PPACA coverage determinations in 2014, over 50,000 new kidney transplants will be performed. Those patients will face the uncertainty of not knowing whether they will have adequate access to immunosuppressive drugs in the long term. This is a risk we see as too great.

S. 565/H.R. 1458 only grants a beneficiary access to the Medicare Part B immunosuppressive drug coverage benefit and provides that these individuals are responsible for only that portion of the Part B premium which covers the immunosuppressive benefit; consequently, patients will only choose this option as a last resort. S.565/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.

More than 100 members of Congress have cosponsored S.565/H.R. 1458 and have shown their support to extend immunosuppressive drug coverage. Correcting the current irrational immunosuppressive coverage policy will save lives -- many of them. It will save transplanted kidneys so that others on the transplant candidate wait list can receive one of the scarce organs available. And it will save Medicare the unnecessary costs of returning to dialysis and re-transplanting patients with kidney failure who have lost their graft as a result of their inability to pay for their immunosuppressive drugs. We urge you to act quickly and pass S. 565/H.R. 1458, as revised, during the final months of the 111th Congress.

Sincerely,

American Society of Transplantation

American Association of Tissue Banks

PKD Foundation

Transplant Recipients International Organization

United Network for Organ Sharing

Renal Physicians Association

National Kidney Foundation

American Society of Pediatric Nephrology

American Society of Transplant Surgeons

NATCO, The Organization for Transplant Professionals

American Association of Kidney Patients

Renal Physicians Association