

# CDC Report

Friday, May 21 ,2004

Los Angeles, California

**Legislative Report and State Budget:** Michael Arnold presented the following up-date from Sacramento:

The Administration has decided **not** to include the proposed 10% additional cut in Medi-Cal reimbursement in the budget at this time. Michael stated, however, that we cannot let our guard down because as the budget negotiations continue, there is a possibility that the issue may arise again. The Governor wants to expand more of the Medi-Cal program into the managed care arena. The ABD (aged, blind and disabled) sector is slated to be expanded into managed care. We need to be sure that if this happens, we get the ESRD population carved out.

*Medi-Cal Clinical Laboratory Services RFA.* A Request for Applications (RFA) for contracting for clinical laboratory services was released in April by the Department of Health Services. It was poorly drafted and has been put on hold until the RFA can be re-drafted. We do not know how many clinical laboratories will be providers, but no population of patients will be carved out of the requirement. Michael Arnold believes that the ESRD specialty labs will probably qualify as providers. The Department of Health Services believes there is fraud and abuse in the laboratory industry and they hope to control fraud by utilizing particular providers. They will try to shift the burden of proof of non-wrongdoing onto the provider community by looking at violations of contractual provisions by providers. Providers will have the responsibility for proving they are delivering accurate services.

*Assembly Joint Resolution (AJR) related to Medicare Reimbursement.* Jan Anderson reported that she has been working with Michael Arnold to draft an AJR to Medicare in support of adjusted reimbursement for California dialysis facilities. Dialysis reimbursement is supposed to include a geographic wage adjustment (wage index). The last adjustment was made in 1986. Since that time there have been three increases (1991, 2000 and 2001). In 1991 the increase was for a flat rate of \$1 per treatment. The two more recent increases were for a total of 2.4% and were applied to all facilities regardless of geographical location. The 1986 adjustment was based upon data collected in 1976-1980; obviously costs have increased since that time. Only Nevada has a more serious nursing shortage than California. As a result of the new staffing ratio law for hospitals that became effective this past January, the shortage for outpatient dialysis has become worse. The Medicare Modernization Act (MMA) includes a requirement for a geographic wage index and MMA becomes effective in January of 2005. Jan suggested that CDC approach Dr. Barry Straube in CMS Region IX and request his assistance in advocating for California in this regard. Jan has also worked in drafting an AJR to this end.

In 1993, when Prospective Payment System (PPS) was put in place, CMS was mandated to adopt annual wage index adjustments for hospitals. As other health industries such as SNFs have been changed to a PPS system, they have also been added to the required annual wage index changes. However, even this requirement utilizes four-year old data and does not address the California experience of the past 2 years. Jan performed a survey of four ESRD providers in the Bay Area recently. Two of the four were hospital-based and two were free-standing. The salary mid-point for all of the providers for RN salary was \$39.95 per hour. In the past three years, hospital-based providers have experienced a 40% increase, and there has been a 30% increase across both provider types.

In the original composite rate data, the government indicated they might someday have an ESRD-specific wage index. There is precedent for provider-specific wage indices in other areas of health care such as hospice. The draft AJR that Jan and Michael Arnold have worked on urges the federal government to make the development and application of a current geographic wage index a component of any new system for dialysis reimbursement. Additionally, the draft AJR urges the use of a current wage index whenever changes in dialysis reimbursement are made.

Jan stated that the main drawback to moving forward with the AJR is the potential negative effect it might have on dialysis in other geographic areas. MMA requires any changes to be budget neutral. So, if California receives an increase, someone else will experience a decrease in reimbursement. This might have a negative overall effect on dialysis facilities operated by the Large Dialysis Organizations (LDO) and they might not be supportive. Since LDOs are integral members of CDC and are under represented at today's Board Meeting, CDC should be sensitive to their opinions. Jan suggested that CDC take the proposal to Kidney Care Partners (KCP). CDC has recently been accepted as a member organization of KCP, but Jan feels we should move forward with bringing the issue to their attention as

time is short. John De Palma and Peter Crooks both stated that CDC is a California-specific organization and that this is a crisis in California (especially in Northern California) and that we should move forward on our own.

The Legislature will be in session through June, back in August and then gone in September for the remainder of the year. Michael Arnold stated that if we wish to move forward with the AJR process, he will need to find an author quickly. We will need to come up with a current wage index to this end. Michael suggested that perhaps we might work with KCP regarding what the industry thinks should be used in the index.

Jan Anderson believes that CDC should move forward with the AJR, but also work with KCP. Michael Arnold would like to have a letter explaining the above and an accompanying copy of the Assembly Joint Resolution sent to the LDOs and give them the opportunity for comment. If there is no comment, we will move forward, if there are any objections, the issue will be put on the CDC June Board Meeting agenda. At this point there was not a quorum of Board members present to vote as John De Palma had to leave the meeting.

*AB3029* This bill would require providers to submit Medi-Cal beneficiary numbers and the issuance dates when submitting bills for Medi-Cal and Denti-Cal services. Michael Arnold will request an exemption for chronic dialysis services. Michael distributed a legislative status report effective May 19, 2004 to all in attendance.

**Regulatory Report: Initial Licensure Visits** - Karen Dyer reported that Mark Crone with Innovative Dialysis Systems recently had a conversation with Eric Stone of the Los Angeles County Department of Health. Mr. Stone indicated to Mark Crone that new facility licensure visits would take between 8 and 12 months. Mark was unsure of what the start time would be for the 8-12 months (license application submission or certificate of occupancy). Ms. Dyer reported that Mr. Crone was requesting assistance from Michael Arnold with the State Health Department on this issue. Mr. Crone had stated that he would be willing to pay additional fees for an earlier licensure visit if that would help with the problem. Nancy Ann James with DaVita stated that her company had tried this approach in the past without any success. If it is true that a completed facility would have to wait for up to a year prior to state licensure, Ms. Dyer stated that companies really would end construction of new facilities in California and that access to care would certainly become a problem for ESRD patients. Debra Punch stated that she has been working with Mr. Stone on the survey process for home dialysis in Skilled Nursing Facilities (SNFs) and that she would follow up with Mr. Stone as to the timing of the delays. If it becomes apparent that such delays may be a reality, Ms. Punch stated that the issue should be brought to the attention of Dr. Straube.

**NRAA Report:** Cindy LaMunyon was unable to attend the meeting due to illness. Mike Paget brought a copy of the most recent *Renal Watch* Newsletter from NRAA and commented that members of NRAA receive the publication electronically on a weekly basis.

**ESRD Network Up-Date:** Doug Marsh presented an up-date for Network 18. He stated that last year there were seventeen new facilities opened in the Network and approximately 1100 new patients. There continues to be a decline in the referral of patients for peritoneal dialysis with only 3 additional P.D. patients in the Network for the year 2003. The *Annual Report* is under development and more data profiles will be available in the next four weeks.

The two California Networks, CMS Regional Office staff and the Department of Health Services continue to “meet” quarterly via telephone. There are *newly published regulations regarding dialysis (home) in SNFs* and the Department of Health Services has not yet received directions from CMS regarding how to survey for them.

CMS and the LDOs have been working toward *electronic lab data transfer*. Six Networks were piloting the project and Doug stated that it was going well. Effective May 20, the remaining twelve Networks were to have joined the electronic data transfer, however, there appears to be an issue around this data transfer that is associated with state CLIA regulations. (Section 1288 of the Business & Professions Code states that a clinical laboratory may only release data to the provider.) Electronic data transmission makes life easier for the provider. The Networks have the legal authority to receive the laboratory data so the question is simply in what format it arrives. The first “data dump” to the Networks did occur on May 20 but no future electronic transmission will occur until the CLIA issue has been resolved. This issue is being worked on at a national level.

*VISION* ESRD Network 6 has led the development of the new version of *VISION*, the facility electronic data transfer system. Facilities will be able to send forms to the Networks electronically using *VISION* and several facilities will be scheduled for training in the next four weeks.

The ESRD Networks requested that Amgen provide them aggregate data regarding anemia measures. With the exception of Network 15, which is allowed reimbursement for higher hematocrit because of their altitude, *Networks*

*17 and 18 were number two and three in the nation for anemia management outcomes.*

The long-awaited new *Conditions for Coverage* have cleared through CMS and are at the OMB. The CMS strategic plan for the next five years is rife with references to the new conditions. Doug believes that a notice of Proposed Rule Making will probably be released soon and Jan Anderson stated that she had heard perhaps as soon as July (to be effective in September).

*Fistula First* Network 18 is currently working with 25 facilities which are early adopters. The Network is doing well regarding fistula placement, consistently ranking fourth in the nation (following Networks 15, 16 and 1). Mark McClellan, who replaced Tom Scully, is “on-board” with the importance of the *Fistula First* program. New G-codes are coming for vein mapping related to hemodialysis access placement. CMS is also working on repairing the disparity in reimbursement for graft versus fistula placement. Additionally, CMS is working with JCAHO to have indicators added to hospital accreditation regarding vascular access.

Network 18 is having a contest for the oldest fistula still in use. The current fistula with the greatest longevity is 33 years old!

**Medicare/ Medi-Cal Report:** Kelley Wright with Amgen delivered the Medi-Cal report as follows: An overhaul of the Medi-Cal payment system is in process. The state is moving toward an Average Selling Price (ASP) system of reimbursement. No one seems certain of the definition of ASP; it could be the OIG definition or the state’s own. It is possible that the change in system might not be a bad thing for the industry. The hemophilia blood factors received ASP plus 20%.

Dr. Farber is now working on an EPO policy revision. There will be a meeting in June at which Kelley would like to have a provider and a reimbursement specialist accompany her. EDS will also attend the meeting so that the limitations of the technical ability of the Medi-Cal system can be taken into consideration with the proposed changes in reimbursement.

**Membership Report:** Sandra Wilson stated that 59 facilities have renewed their memberships with 6 not having renewed. Gambro and FMC have renewed and DaVita is in the process. There are 13 individual members and 15 physician members.

**CDC Program Committee:** Peter Crooks reported for Mary Brattich. Speaker evaluations from the Annual Meeting have now been tallied. The three highest rated speakers were Dr. Larry Spergel, Dr. Carl Kjellstrand, and Gail Wick. Dr. Barry Straube followed Ms. Wick closely.

The 2005 Annual Meeting will be April 7-9 again at the Wyndham Palm Springs. The 2005 committee members are Mary Brattich, Peter Crooks, and Nancy Ann James. If anyone has ideas for speakers or topics, please pass them along to Peter or Mary. Dr. Crooks also thanked Sandra Wilson and Lori Hartwell for their hard work on the PAC silent auction. There were 232 attendees this year.

**Other Business:** Sue Vogel announced that CDC is becoming a member of the Kidney Care Partners group which is a coalition of LDOs, providers, and other organizations with an interest in ESRD. Mike Paget stated that we have been voted into membership, but have received nothing in writing as yet. We do not know what the cost of membership will be. July 7 is the next KCP meeting in Washington, DC and Sue Vogel will attend representing CDC.

### **Next Open Board Meeting:**

**June 18, 2004 in Oakland**

**at the Oakland Airport Holiday Inn**

**For more information and a registration form, please visit our web site at:**

**[http://www.caldialysis.org/next\\_meeting.htm](http://www.caldialysis.org/next_meeting.htm)**